

ASSEMBLY BILL NO. 605—COMMITTEE ON ELECTIONS,
PROCEDURES, ETHICS, AND CONSTITUTIONAL AMENDMENTS

MARCH 26, 2007

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

SUMMARY—Makes various changes concerning ethics in
government. (BDR 23-168)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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; requiring the
Commission on Ethics to provide a course for certain
elected public officers and lobbyists about relevant ethics
laws; making various changes concerning the use of
governmental time, property, equipment or other facility
by public officers or employees and Legislators;
increasing the civil penalties for willful violation of ethics
laws; and providing other matters properly relating
thereto.

Legislative Counsel's Digest:

Section 1 of this bill requires the Commission on Ethics to establish a course
for elected public officers and lobbyists about relevant provisions of law
concerning ethics with which they must comply. (NRS 281.471) **Section 4** of this
bill requires a person who is elected to office or appointed to an elected office to
complete the course not later than 2 months after his election or appointment. (NRS
281.552) **Section 5** of this bill requires a person who registers as a lobbyist to
complete the course not later than 2 weeks after such registration. A person is not
required to complete the course more than one time.

Section 2 of this bill prohibits a public officer, public employee and Legislators
from using governmental time, property, equipment or other facility for an activity
relating to a political campaign or the preparation of a campaign-related report
required pursuant to chapter 294A of NRS. Legislators and other elected public
officers are further prohibited from using governmental time, property, equipment
or other facility for the preparation of a statement of financial disclosure.
(NRS 281.481)



* A B 6 0 5 *

Section 3 of this bill increases the civil penalties that the Commission on Ethics may impose on a public officer or employee or former public officer by \$5,000 for willful violations of the ethics laws.

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

Section 1. 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 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.



* A B 6 0 5 *

1 7. *Establish and provide a course for public officers who are*
2 *elected or appointed to an elected public office about the relevant*
3 *provisions of law concerning ethics with which they must comply.*
4 *Such a course must be offered at least two times each month for 2*
5 *months after each election at which public officers are elected and*
6 *at such other times as may be necessary. The Commission may*
7 *charge a fee to cover the cost of providing such a course.*

8 8. *Establish and provide a course for lobbyists about the*
9 *relevant provisions of law concerning ethics with which they must*
10 *comply. Such a course must be offered at least two times each*
11 *month for the month preceding a legislative session and the two*
12 *months immediately following and at such other times as may be*
13 *necessary. The Commission may charge a fee to cover the cost of*
14 *providing such a course.*

15 **Sec. 2.** NRS 281.481 is hereby amended to read as follows:

16 281.481 A code of ethical standards is hereby established to
17 govern the conduct of public officers and employees:

18 1. A public officer or employee shall not seek or accept any
19 gift, service, favor, employment, engagement, emolument or
20 economic opportunity which would tend improperly to influence a
21 reasonable person in his position to depart from the faithful and
22 impartial discharge of his public duties.

23 2. A public officer or employee shall not use his position in
24 government to secure or grant unwarranted privileges, preferences,
25 exemptions or advantages for himself, any business entity in which
26 he has a significant pecuniary interest, or any person to whom he
27 has a commitment in a private capacity to the interests of that
28 person. As used in this subsection:

29 (a) "Commitment in a private capacity to the interests of that
30 person" has the meaning ascribed to "commitment in a private
31 capacity to the interests of others" in subsection 8 of NRS 281.501.

32 (b) "Unwarranted" means without justification or adequate
33 reason.

34 3. A public officer or employee shall not participate as an agent
35 of government in the negotiation or execution of a contract between
36 the government and any private business in which he has a
37 significant pecuniary interest.

38 4. A public officer or employee shall not accept any salary,
39 retainer, augmentation, expense allowance or other compensation
40 from any private source for the performance of his duties as a public
41 officer or employee.

42 5. If a public officer or employee acquires, through his public
43 duties or relationships, any information which by law or practice is
44 not at the time available to people generally, he shall not use the



1 information to further the pecuniary interests of himself or any other
2 person or business entity.

3 6. A public officer or employee shall not suppress any
4 governmental report or other document because it might tend to
5 affect unfavorably his pecuniary interests.

6 7. A public officer or employee, other than a member of the
7 Legislature, shall not use governmental time, property, equipment or
8 other facility to benefit his personal or financial interest. ~~[This]~~
9 *Except as otherwise provided in subsection 9, this* subsection does
10 not prohibit:

11 (a) A limited use of governmental property, equipment or other
12 facility for personal purposes if:

13 (1) The public officer who is responsible for and has
14 authority to authorize the use of such property, equipment or other
15 facility has established a policy allowing the use or the use is
16 necessary as a result of emergency circumstances;

17 (2) The use does not interfere with the performance of his
18 public duties;

19 (3) The cost or value related to the use is nominal; and

20 (4) The use does not create the appearance of impropriety;

21 (b) The use of mailing lists, computer data or other information
22 lawfully obtained from a governmental agency which is available to
23 members of the general public for nongovernmental purposes; or

24 (c) The use of telephones or other means of communication if
25 there is not a special charge for that use.

26 ➤ If a governmental agency incurs a cost as a result of a use that is
27 authorized pursuant to this subsection or would ordinarily charge a
28 member of the general public for the use, the public officer or
29 employee shall promptly reimburse the cost or pay the charge to the
30 governmental agency.

31 8. A member of the Legislature shall not:

32 (a) Use governmental time, property, equipment or other facility
33 for a nongovernmental purpose or for the private benefit of himself
34 or any other person. ~~[This]~~ *Except as otherwise provided in*
35 *subsection 9, this* paragraph does not prohibit:

36 (1) A limited use of state property and resources for personal
37 purposes if:

38 (I) The use does not interfere with the performance of his
39 public duties;

40 (II) The cost or value related to the use is nominal; and

41 (III) The use does not create the appearance of
42 impropriety;

43 (2) The use of mailing lists, computer data or other
44 information lawfully obtained from a governmental agency which is



1 available to members of the general public for nongovernmental
2 purposes; or

3 (3) The use of telephones or other means of communication
4 if there is not a special charge for that use.

5 (b) Require or authorize a legislative employee, while on duty,
6 to perform personal services or assist in a private activity, except:

7 (1) In unusual and infrequent situations where the
8 employee's service is reasonably necessary to permit the Legislator
9 or legislative employee to perform his official duties; or

10 (2) Where such service has otherwise been established as
11 legislative policy.

12 9. *A public officer or employee or Legislator shall not use*
13 *governmental time, property, equipment or other facility for an*
14 *activity relating to a political campaign or the preparation of a*
15 *report required pursuant to chapter 294A of NRS. A Legislator or*
16 *other elected public officer further shall not use governmental*
17 *time, property, equipment or other facility for an activity relating*
18 *to the preparation of a statement of financial disclosure required*
19 *pursuant to NRS 281.559 to 281.581, inclusive.*

20 10. A public officer or employee shall not attempt to benefit
21 his personal or financial interest through the influence of a
22 subordinate.

23 ~~10.~~ 11. A public officer or employee shall not seek other
24 employment or contracts through the use of his official position.

25 **Sec. 3.** NRS 281.551 is hereby amended to read as follows:

26 281.551 1. In addition to any other penalty provided by law,
27 the Commission may impose on a public officer or employee or
28 former public officer or employee civil penalties:

29 (a) Not to exceed ~~[\$5,000]~~ \$10,000 for a first willful violation of
30 this chapter;

31 (b) Not to exceed ~~[\$10,000]~~ \$15,000 for a separate act or event
32 that constitutes a second willful violation of this chapter; and

33 (c) Not to exceed ~~[\$25,000]~~ \$30,000 for a separate act or event
34 that constitutes a third willful violation of this chapter.

35 2. In addition to other penalties provided by law, the
36 Commission may impose a civil penalty not to exceed \$5,000 and
37 assess an amount equal to the amount of attorney's fees and costs
38 actually and reasonably incurred by the person about whom an
39 opinion was requested pursuant to NRS 281.511 against a person
40 who prevents, interferes with or attempts to prevent or interfere with
41 the discovery or investigation of a violation of this chapter.

42 3. If the Commission finds that a violation of a provision of
43 this chapter by a public officer or employee or former public officer
44 or employee has resulted in the realization by another person of a
45 financial benefit, the Commission may, in addition to other penalties



1 provided by law, require the current or former public officer or
2 employee to pay a civil penalty of not more than twice the amount
3 so realized.

4 4. If the Commission finds that:

5 (a) A willful violation of this chapter has been committed by a
6 public officer removable from office by impeachment only, the
7 Commission shall file a report with the appropriate person
8 responsible for commencing impeachment proceedings as to its
9 finding. The report must contain a statement of the facts alleged to
10 constitute the violation.

11 (b) A willful violation of this chapter has been committed by a
12 public officer removable from office pursuant to NRS 283.440, the
13 Commission may file a proceeding in the appropriate court for
14 removal of the officer.

15 (c) Three or more willful violations have been committed by a
16 public officer removable from office pursuant to NRS 283.440, the
17 Commission shall file a proceeding in the appropriate court for
18 removal of the officer.

19 5. An action taken by a public officer or employee or former
20 public officer or employee relating to NRS 281.481, 281.491,
21 281.501 or 281.505 is not a willful violation of a provision of those
22 sections if the public officer or employee establishes by sufficient
23 evidence that he satisfied all of the following requirements:

24 (a) He relied in good faith upon the advice of the legal counsel
25 retained by the public body which the public officer represents or by
26 the employer of the public employee or upon the manual published
27 by the Commission pursuant to NRS 281.471;

28 (b) He was unable, through no fault of his own, to obtain an
29 opinion from the Commission before the action was taken; and

30 (c) He took action that was not contrary to a prior published
31 opinion issued by the Commission.

32 6. In addition to other penalties provided by law, a public
33 employee who willfully violates a provision of NRS 281.481,
34 281.491, 281.501 or 281.505 is subject to disciplinary proceedings
35 by his employer and must be referred for action in accordance to the
36 applicable provisions governing his employment.

37 7. NRS 281.481 to 281.541, inclusive, do not abrogate or
38 decrease the effect of the provisions of the Nevada Revised Statutes
39 which define crimes or prescribe punishments with respect to the
40 conduct of public officers or employees. If the Commission finds
41 that a public officer or employee has committed a willful violation
42 of this chapter which it believes may also constitute a criminal
43 offense, the Commission shall refer the matter to the Attorney
44 General or the district attorney, as appropriate, for a determination
45 of whether a crime has been committed that warrants prosecution.



8. The imposition of a civil penalty pursuant to subsection 1, 2 or 3 is a final decision for the purposes of judicial review.

9. A finding by the Commission that a public officer or employee has violated any provision of this chapter must be supported by a preponderance of the evidence unless a greater burden is otherwise prescribed by law.

Sec. 4. NRS 281.552 is hereby amended to read as follows:

281.552 1. *As soon as practicable, but not later than 2 months after a person is elected or appointed to an elected public office, the person must complete a course concerning ethics which is provided by the Commission pursuant to NRS 281.471. A person is not required to complete the course more than one time for the public office for which he has been elected or appointed.*

2. Every public officer shall acknowledge that he has ~~received~~:

(a) *Completed the course required pursuant to subsection 1 if he has not previously acknowledged completion; and*

(b) *Received*, read and understands the statutory ethical standards.

3. The acknowledgment *required pursuant to subsection 2* must be on a form prescribed by the Commission and must accompany the first statement of financial disclosure that the public officer is required to file with the Commission pursuant to NRS 281.559 or the Secretary of State pursuant to NRS 281.561.

~~[2-]~~ 4. The Commission and the Secretary of State shall retain an acknowledgment filed pursuant to this section for 6 years after the date on which the acknowledgment was filed.

~~[3-]~~ 5. Willful refusal to execute and file the acknowledgment required by this section constitutes nonfeasance in office and is a ground for removal pursuant to NRS 283.440.

Sec. 5. Chapter 218 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *As soon as practicable, but not later than 2 weeks after a person files a registration statement pursuant to NRS 218.918, the person must complete a course concerning ethics which is provided by the Commission on Ethics pursuant to NRS 281.471.*

2. *A person is not required to complete the course more than one time.*

Sec. 6. NRS 218.900 is hereby amended to read as follows:

218.900 NRS 218.900 to 218.944, inclusive, *and section 5 of this act* may be cited as the Nevada Lobbying Disclosure Act.

Sec. 7. NRS 218.904 is hereby amended to read as follows:

218.904 As used in NRS 218.900 to 218.944, inclusive, *and section 5 of this act*, the terms defined in NRS 218.905 to 218.916, inclusive, have the meanings ascribed to them in those sections.



- 1 **Sec. 8.** 1. The provisions of section 4 of this act apply to any
2 public officer who is elected or appointed on or after October 1,
3 2007.
4 2. The provisions of section 5 of this act apply to a lobbyist
5 who files a statement of registration pursuant to NRS 218.918 on or
6 after October 1, 2007.

