

**MINUTES OF THE  
SENATE COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS**

**Seventy-fourth Session  
April 5, 2007**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Barbara K. Cegavske at 1:31 p.m. on Thursday, April 5, 2007, in Room 2144 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4412E, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Barbara K. Cegavske, Chair  
Senator William J. Raggio, Vice Chair  
Senator Warren B. Hardy II  
Senator Bob Beers  
Senator Bernice Mathews  
Senator Valerie Wiener  
Senator Steven A. Horsford

**STAFF MEMBERS PRESENT:**

Brenda J. Erdoes, Legislative Counsel  
Michelle L. Van Geel, Committee Policy Analyst  
Brian Campolieti, Committee Secretary

**OTHERS PRESENT:**

James Kosinski, Reno, Chair, Commission on Ethics  
Craig Walton, Nevada Center For Public Ethics  
John Redlein, City Attorney's Office, City of Las Vegas  
L. Patrick Hearn, Executive Director, Commission on Ethics  
Janine Hansen, Nevada Eagle Forum

CHAIR CEGAVSKE:

Today, we will hear Senate Bill (S.B.) 495.

**SENATE BILL 495**: Makes various changes relating to ethics in government.  
(BDR 23-566)

JAMES KOSINSKI (Reno, Chair, Commission on Ethics):

We have provided an Intent and Justification Chart for the Committee ([Exhibit C](#)). Most of the provisions contained in S.B. 495 concern our procedures when dealing with ethics complaints. However, there are exceptions. One exception is with section 16 of S.B. 495 which contains a criminal penalty the Commission on Ethics enforces. We are bringing this issue to the Committee to determine whether the Legislature desires to leave it that way or remove the criminal sanctions. It is a policy question for the Legislature and not for the Commission on Ethics. We also have a provision for the statute of limitations in section 8 of S.B. 495. Members of the Commission believe the broad statute of limitations contained in the *Nevada Revised Statute* (NRS) 11.190 should be three years. We are asking the Legislature to decide how many years that statute would run. The cooling-off period contained in NRS 281.236 has been difficult for us. Under current law, it appears it is outside our jurisdiction even though the Legislature intended for us to take action if requested by a business or industry. The burden has been on the business or industry to come forward and ask for an exemption. We propose to change that burden by requiring the public officer or employee to come forward and request an exemption if they so desire. Many sections, including section 2, are conforming the references contained in our ethics and government law to indicate that we are not dealing entirely with NRS 281. Our jurisdiction is limited to the provisions of NRS 281.411 to NRS 281.581.

Senate Bill 495 will also include, within those provisions, NRS 281.236. In the past, we had difficulty dealing with the quorum issue. Two members of the Commission who sit on a panel to determine whether an ethics complaint should go forward are prohibited from serving in the hearing itself. That reduces the members on the Commission to six. In addition, we have a provision in NRS 281.511 which stipulates that if a Commission member were to abstain, we would lose that member. We hope this language will reduce our quorum requirements by the two panel members who cannot serve in the hearing and by any commissioners who must abstain pursuant to NRS 281.511. Sections 4 and 5 conform the provisions within the Commission's jurisdiction. Section 6 gives the Executive Director and the Commission the authority to provide for the duties of the legal counsel for the Commission. Section 7 conforms any provisions within our jurisdiction. Section 8 is the statute of

limitations issue I spoke of earlier. Section 9 conforms the references to include particular statutes within the Commission's jurisdiction. Section 10 provides that the filing of a disclosure of a representation statement is due the same time of the annual filing of the financial disclosure statement. Section 11 deals with the Commission's 45-day investigations and 30-day Commission hearing deadlines. We are asking those deadlines be increased to 60 days and give the Commission authority to extend that time for good cause shown by the Executive Director. Sections 12, 13 and 14 conform the statutory jurisdiction of the Commission. Section 15 provides that if a public officer is not required to file a financial declaration, then he or she must file their ethics declaration within 30 days of their appointment. Section 16 deletes the proposal to remove the criminal sanction from the honorarium statute and would be left as an ethical violation for any public official who violates those provisions.

CRAIG WALTON (Nevada Center For Public Ethics):

We support S.B. 495. Section 1, subsections 1, 2 and 3 provide a one-year, cooling-off period for the Public Utilities Commission of Nevada and the State Gaming Control Board and the phrase "former public officer or employee." That would cover Legislators and everyone not previously covered. In that case, the cooling-off standard would apply to all officers in significant positions. This practice is used in Clark County and has been a positive step.

CHAIR CEGAVSKE:

Did the Ethics Commission intend to include all elected officials?

MR. KOSINSKI:

Correct, public officers and employees are within our jurisdiction.

SENATOR BEERS:

Section 1, subsection 3 would prohibit Senator Dina Titus from going back to work for the University of Nevada, Las Vegas.

MR. WALTON:

The governing language for a cooling-off period is when you present yourself on behalf of an employer in testimony for an act or permit of approval or disapproval. That would mean you are lobbying. I am unsure teaching a class would be presenting yourself in the same way.

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JOHN REDLEIN (City Attorney's Office, City of Las Vegas):

The City of Las Vegas has a cooling-off period which relates to appearing as a lobbyist within one year after you depart the service. You cannot return and lobby your own organization unless it is on your personal behalf. The provision in S.B. 495 that addresses NRS 281.236 forbids employment. You will find further information on this issue in the document my staff provided ([Exhibit D](#)) to the Committee.

SENATOR BEERS:

Senate Bill 495 does not mention lobbying. I would be prohibited from working for a certified public accountant (CPA) firm.

MR. REDLEIN:

Senate Bill 495 is more potent than what local governments have decided to do. I am concerned about section 1, subsection 3 of S.B. 495 and its application to all levels of government. The 1993 legislation which created this statute was intended to apply to all state officers. It appears from the legislative history it was never intended to apply to local government officials and the language utilized does make it apply to local government officials. I reviewed all the opinions issued over the years since this statute was issued. Every opinion has been from state officials.

CHAIR CEGAVSKE:

When we have a work session on S.B. 495, I would like to propose to the Committee that section 1, subsection 3 of S.B. 495 be replaced with "a former public officer or employee shall not represent another person or entity before the government for money for one year after the termination of their service or period of employment."

L. PATRICK HEARN (Executive Director, Commission on Ethics):

I draw your attention to the language in section 1, subsection 3 of S.B. 495 which includes the phrase

... in any industry whose activities are governed by regulations adopted by a department, division or other agency of the Executive Branch of government by which the former public officer or employee was employed.

Senate Bill 495 would not preclude Senator Titus from working for the University or Senator Beers from working for a CPA firm because you are not part of the Executive Branch.

SENATOR BEERS:

But it would preclude an appointed CPA serving on the Nevada State Board of Accountancy from going to work for a CPA firm at the end of their term. They are appointed by the Governor. Do you see anything in S.B. 495 that would allow them to continue to work for their former CPA firm?

MR. HEARN:

No, I do not. However, there may be some provisions for regulatory members such as CPAs serving on the Board because they must be members of that profession in order to hold that office.

SENATOR BEERS:

The language in S.B. 495 will prohibit a member of the Board from going back to work at the CPA firm where they previously worked.

BRENDA J. ERDOES (Legislative Counsel):

There is basic case law stating every entity in the state must be in one Branch or another. Therefore, licensing boards would fall under the Executive Branch. The only exclusion from the Executive Branch is in NRS 353 which deals with state financial administration, and they are exempted from the budget act.

MR. WALTON:

We have concern with section 6 which addresses the duties of the Commission counsel. The duties are prescribed by the Commissioners, and section 6 allows those duties to be prescribed by the Executive Director as well. We are concerned there is no provision for a public officer or a channel for reconsideration of a decision from the Commission's Executive Director to the Commission's counsel. The Commission's counsel is a member of the American Bar Association and held to the ethics of the State Bar of Nevada. This creates a situation where you have the independence of judgment from the Commission's counsel versus the authority of the Executive Director. As a result of this, we are requesting section 6 to have a request for reconsideration forwarded to the Office of the Attorney General.

CHAIR CEGAUSKE:

I received an additional recommendation to section 6 as well.

MR. WALTON:

Section 11 creates confusion. The Ethics Commission is permitted to issue advisory opinions to public officials who request one as well as administering to complaints from citizens. The problem is the time line. Forty-five days is more than enough time for advisement. The other problem we have is with complaints. There can be stalling on the part of a complainer or the regular process of investigation could take longer. It is important in section 11 to draw distinction from two different time lines, one for advisories and one for complaints.

MR. KOSINSKI:

Section 11, subsection 3 only deals with third-party complaints, not advisory complaints. The time line we are requesting is for the investigative process. We do not believe it needs to be longer than 60 days. The situation Mr. Walton described was at a time when we did not have an investigator; the Executive Director was doing all investigations. Since that time, we hired an investigator and acquired a researcher as well. Our time lines will be substantially reduced as a result. The 60-day time line is sufficient; and if it does not prove enough time, section 11, subsection 3 of S.B. 495 allows an extension "upon the written request of the Executive Director, the Commission grants an extension for good cause shown."

SENATOR HARDY:

Senate Bill 495 makes it impossible to be employed for a year. If I am not reelected in the next election, I cannot afford to take a year off. I came to the Legislature as a paid lobbyist and if I chose to return to that profession, I would have to wait a year before I could work. That would be like telling Assemblyman John Ocegura that he could not go back to being a firefighter or telling Senator Joseph J. Heck he could not go back to being a doctor. Senate Bill 495 is too inclusive. Another concern I have with section 3 of S.B. 495 is that it states "a majority of those present at any meeting is sufficient for any official action taken by the Commission." According to this, two people could presumably take official action against someone. We need to make a decision whether we want a citizen's Legislature. If the price of being a member of the Nevada State Legislature is that you could not work for a year afterwards, no one would want to become a member. Any infringement on the

citizen's Legislature is something everyone should care a great deal about. Nevada is served well by this Legislature.

MR. REDLEIN:

The statutes say "accept employment." We all understand this is to keep someone from buttering his toast while working for taxpayers and then jumping off and taking a cushy job in the private world. This will be the price for the job of serving the people of Nevada.

MR. KOSINSKI:

I do not understand how members of this Committee are interpreting that S.B. 495 applies to the Legislative Branch. The language talks in terms of being employed by an agency of the Executive Branch.

SENATOR HARDY:

I understand we are not necessarily talking about the Legislative Branch, but S.B. 495 says that a former public official or employee may not accept employment with any business or in any industry. Even if a business is not directly involved with petitioning the government, the industry is still governed by the regulations adopted by a department, division or other agency of the Executive Branch.

MR. KOSINSKI:

Senate Bill 495 may be relevant to Nevada State Board of Accountancy employees, but members of the Legislature would not be impacted. Senate Bill 495 does not apply to employees or members of the Legislative Branch.

SENATOR BEERS:

School district administrators are employed with a contract that is renewed annually. Under the provisions in S.B. 495, they would not have their contract renewed. Would they qualify?

MS. ERDOES:

Senate Bill 495 would not apply to school district administrators even though they are partly funded by the Distributive School Account. They are considered local government employees. As to the reemployment issue, even though their contracts are renewed annually, they are not treated as new employees each time.

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CHAIR CEGAVSKE:

The other issue was section 3 and the specific number of members on the Commission that would be required for a quorum.

SENATOR BEERS:

I suggest we replace section 3 of S.B. 495.

SENATOR HARDY:

We can achieve what the Commission on Ethics wants without being as restrictive.

JANINE HANSEN (Nevada Eagle Forum):

We have a concern with the quorum issue mentioned earlier. The Commission on Ethics has too much power over the state. We need to have any decisions by the Commission on Ethics go to a new trial so all facts can be reviewed. This would hold the Commission on Ethics in check.



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CHAIR CEGAVSKE:

If there is nothing else to come before this Committee, I adjourn the Senate Committee on Legislative Operations and Elections at 2:15 p.m.

RESPECTFULLY SUBMITTED:

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Brian Campolieti,  
Committee Secretary

APPROVED BY:

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Senator Barbara K. Cegavske, Chair

DATE: \_\_\_\_\_