

SENATE BILL NO. 104—COMMITTEE ON LEGISLATIVE
OPERATIONS AND ELECTIONS

(ON BEHALF OF THE COMMISSION ON ETHICS)

PREFILED DECEMBER 15, 2008

Referred to Committee on Legislative Operations and Elections

SUMMARY—Makes various changes relating to ethics in government. (BDR 23-418)

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; making various changes to provisions relating to ethics in government; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, certain regulated businesses are required to observe a 1-year “cooling off” period before hiring certain former public officers and employees who were involved in regulating such a business. (NRS 281.236) **Section 19** of this bill removes that requirement and, instead, **section 3** of this bill imposes the requirement to observe the “cooling off” period on the former public officers and employees who were involved in regulating such a business. Because **section 3** is part of the Nevada Ethics in Government Law (chapter 281A of NRS), the Commission on Ethics has jurisdiction to enforce observation of the “cooling off” period and to impose civil penalties for willful violations. (NRS 281A.480)

The Code of Ethical Standards (NRS 281A.400) prohibits a public officer or employee from taking certain actions to benefit a business entity, which is defined as an entity doing business in Nevada in which he has a significant pecuniary interest. (NRS 281A.040) For the purposes of the requirements for reporting interests in businesses on financial disclosure statements, “business entity” is defined broadly to apply to entities operated for financial gain, regardless of their location. (NRS 281A.620) **Section 5** of this bill makes this broader definition of “business entity” applicable to the prohibitions in the Code and therefore expands the businesses with respect to which a public officer or employee is prohibited from taking certain actions to benefit. In addition, **section 11** of this bill makes those prohibitions in the Code apply regardless of the level of pecuniary interest that the public officer or employee has in the business. (NRS 281A.400)

Under existing law, the term “member of the legislative branch” is defined as Legislators or members of boards of county commissioners or the governing body



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of a city or other political subdivisions who perform a legislative function. By making the definition of "political subdivision" applicable throughout the Nevada Ethics in Government Law, **section 2** of this bill clarifies that the provisions relating to members of the legislative branch only apply to Legislators and members of local governing bodies. (NRS 281A.130, 281A.520) **Section 6** of this bill revises the definition of "legislative function" for the purposes of determining whether a local governmental public officer is a "member of the legislative branch." (NRS 281A.110) **Section 7** of this bill makes the Nevada Ethics in Government Law specifically applicable to members of boards of trustees of general improvement districts. (NRS 281A.160)

Section 8 of this bill removes the requirement that the Executive Director of the Commission have experience in law enforcement. (NRS 281A.230)

Section 9 of this bill provides a 4-year statute of limitations for filing an ethics complaint with the Commission after the alleged violation or reasonable discovery of the alleged violation. (NRS 281A.280)

Under existing law, the Commission is required to adopt procedural regulations regarding specified topics. (NRS 281A.290) **Section 10** of this bill allows the Commission to adopt any additional regulations necessary to carry out the Nevada Ethics in Government Law.

Section 12 of this bill makes the requirements concerning abstention the same for a member of a county or city planning commission as for any other public officer. (NRS 281A.420)

Under existing law, a public officer or employee is authorized to bid on or enter into a contract with a governmental agency if certain requirements are met, including that the contracting process is controlled by the rules of competitive bidding. (NRS 281A.430) **Section 13** of this bill makes that requirement inapplicable if the rules of competitive bidding are not employed because the contract is an emergency contract or no responsible bids were previously received in response to an advertisement or request for bids for the contract.

If a public officer or employee requests an opinion from the Commission relating to his own conduct, existing law requires the Commission to render its opinion as soon as practicable or within 45 days after receiving the request, whichever is sooner. (NRS 281A.440) **Section 14** of this bill authorizes a public officer or employee to waive this deadline. **Section 14** also extends from 30 days to 60 days the deadline by which the Commission is required to hold a hearing and render an opinion after the determination of just and sufficient cause by the panel on a request from a third party or on the Commission's own motion, unless the public officer or employee waives the time limit.

Section 15 of this bill imposes a deadline of 30 days after appointment for an appointed public officer to submit an acknowledgment of statutory ethical standards to the Commission. (NRS 281A.500)

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

Section 1. Chapter 281A of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *"Political subdivision" means a county, city or any other local government as defined in NRS 354.474.*

Sec. 3. *1. A former member of the Public Utilities Commission of Nevada shall not:*



1 (a) Be employed by a public utility or parent organization or
2 subsidiary of a public utility; or

3 (b) Appear before the Public Utilities Commission of Nevada
4 to testify on behalf of a public utility or parent organization or
5 subsidiary of a public utility,

6 ➤ for 1 year after the termination of his service on the Public
7 Utilities Commission of Nevada.

8 2. A former member of the State Gaming Control Board or
9 the Nevada Gaming Commission shall not:

10 (a) Appear before the State Gaming Control Board or the
11 Nevada Gaming Commission on behalf of a person who holds a
12 license issued pursuant to chapter 463 or 464 of NRS or who is
13 required to register with the Nevada Gaming Commission
14 pursuant to chapter 463 of NRS; or

15 (b) Be employed by such a person,
16 ➤ for 1 year after the termination of his service on the State
17 Gaming Control Board or the Nevada Gaming Commission.

18 3. In addition to the prohibitions set forth in subsections 1
19 and 2 and except as otherwise provided in subsections 4 and 6, a
20 former public officer or employee of a board, department, division
21 or other agency of the Executive Branch of the State Government,
22 except a clerical employee, shall not solicit or accept employment
23 from a business or industry whose activities are governed by
24 regulations adopted by the board, department, division or other
25 agency for 1 year after the termination of his service or period of
26 employment if:

27 (a) His principal duties included the formulation of policy
28 contained in the regulations governing the business or industry;

29 (b) During the immediately preceding year, he directly
30 performed activities, or controlled or influenced an audit,
31 decision, investigation or other action, which significantly affected
32 the business or industry which might, but for this section, employ
33 him; or

34 (c) As a result of his governmental service or employment, he
35 possesses knowledge of the trade secrets of a direct business
36 competitor.

37 4. The provisions of subsection 3 do not apply to a public
38 officer who was a member of a board, commission or similar body
39 of the State if:

40 (a) The public officer is engaged in the profession, occupation
41 or business regulated by the board, commission or similar body;

42 (b) The public officer holds a license issued by the board,
43 commission or similar body; and



1 (c) *Holding a license issued by the board, commission or*
2 *similar body is a requirement for membership on the board,*
3 *commission or similar body.*

4 5. *Except as otherwise provided in subsection 6, a former*
5 *public officer or employee of the State or a local government,*
6 *except a clerical employee, shall not solicit or accept employment*
7 *from a person to whom a contract for supplies, materials,*
8 *equipment or services was awarded by the State or local*
9 *government, as applicable, for 1 year after the termination of the*
10 *officer's or employee's service or period of employment, if:*

11 (a) *The amount of the contract exceeded \$25,000;*

12 (b) *The contract was awarded within the 12-month period*
13 *immediately preceding the termination of the officer's or*
14 *employee's service or period of employment; and*

15 (c) *The position held by the former public officer or employee*
16 *at the time the contract was awarded allowed him to affect or*
17 *influence the awarding of the contract.*

18 6. *A public officer or employee may request that the*
19 *Commission apply the relevant facts in his case to the provisions*
20 *of subsection 3 or 5, as applicable, and determine whether relief*
21 *from the strict application of those provisions is proper. If the*
22 *Commission determines that relief from the strict application of*
23 *the provisions of subsection 3 or 5, as applicable, is not contrary*
24 *to:*

25 (a) *The best interests of the public;*

26 (b) *The continued integrity of the State Government; and*

27 (c) *The provisions of this chapter,*

28 ➔ *it may issue an opinion to that effect and grant such relief. The*
29 *opinion of the Commission in such a case is subject to judicial*
30 *review.*

31 7. *Each request for an opinion that a public officer or*
32 *employee submits to the Commission pursuant to subsection 6,*
33 *each opinion rendered by the Commission in response to such a*
34 *request and any motion, determination, evidence or record of a*
35 *hearing relating to such a request are confidential unless the*
36 *public officer or employee who requested the opinion:*

37 (a) *Acts in contravention of the opinion, in which case the*
38 *Commission may disclose the request for the opinion, the contents*
39 *of the opinion and any motion, evidence or record of a hearing*
40 *related thereto;*

41 (b) *Discloses the request for the opinion, the contents of the*
42 *opinion or any motion, evidence or record of a hearing related*
43 *thereto; or*



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

8. *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.*

9. *As used in this section, "regulation" has the meaning ascribed to it in NRS 233B.038.*

Sec. 4. NRS 281A.030 is hereby amended to read as follows:

281A.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 281A.040 to 281A.170, inclusive, *and section 2 of this act* have the meanings ascribed to them in those sections.

Sec. 5. NRS 281A.040 is hereby amended to read as follows:

281A.040 "Business entity" means ~~{any}~~ *an organization or enterprise operated for economic gain, including, without limitation, a* proprietorship, partnership, *firm, business, trust, joint venture, syndicate,* corporation or ~~{other enterprise doing business in the State of Nevada.}~~ *association.*

Sec. 6. NRS 281A.110 is hereby amended to read as follows:

281A.110 "Legislative function" means introducing or voting upon ~~{any ordinance or resolution, or voting upon:~~

~~—1. The appropriation of public money;~~
~~—2. The issuance of a license or permit; or~~
~~—3. Any proposed subdivision of land or special exception or variance from zoning regulations.}~~ *matters of a permanent or general character that may reflect public policy and that are not typically restricted to identifiable persons or groups.*

Sec. 7. NRS 281A.160 is hereby amended to read as follows:

281A.160 1. "Public officer" means a person elected or appointed to a position which is established by the Constitution of the State of Nevada, a statute of this State or an ordinance of any of its counties or incorporated cities and which involves the exercise of a public power, trust or duty. As used in this section, "the exercise of a public power, trust or duty" means:

(a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of public policy;

(b) The expenditure of public money; and

(c) The administration of laws and rules of the State, a county or a city.

2. "Public officer" does not include:



- 1 (a) Any justice, judge or other officer of the court system;
- 2 (b) Any member of a board, commission or other body whose
- 3 function is advisory;
- 4 (c) Any member of a ~~[board of trustees for a general~~
- 5 ~~improvement district or]~~ special district whose official duties do not
- 6 include the formulation of a budget for the district or the
- 7 authorization of the expenditure of the district's money; or
- 8 (d) A county health officer appointed pursuant to NRS 439.290.
- 9 3. "Public office" does not include an office held by:
- 10 (a) Any justice, judge or other officer of the court system;
- 11 (b) Any member of a board, commission or other body whose
- 12 function is advisory;
- 13 (c) Any member of a ~~[board of trustees for a general~~
- 14 ~~improvement district or]~~ special district whose official duties do not
- 15 include the formulation of a budget for the district or the
- 16 authorization of the expenditure of the district's money; or
- 17 (d) A county health officer appointed pursuant to NRS 439.290.
- 18 **Sec. 8.** NRS 281A.230 is hereby amended to read as follows:
- 19 281A.230 1. The Commission shall appoint, within the limits
- 20 of legislative appropriation, an Executive Director who shall
- 21 perform the duties set forth in this chapter and such other duties as
- 22 may be prescribed by the Commission.
- 23 2. The Executive Director must have experience in
- 24 administration, ~~[law enforcement, investigations or]~~ *investigations*
- 25 *and* law.
- 26 3. The Executive Director is in the unclassified service of the
- 27 State.
- 28 4. The Executive Director shall devote his entire time and
- 29 attention to the business of the Commission and shall not pursue any
- 30 other business or occupation or hold any other office of profit that
- 31 detracts from the full and timely performance of his duties.
- 32 5. The Executive Director may not:
- 33 (a) Be actively involved in the work of any political party or
- 34 political campaign; or
- 35 (b) Communicate directly or indirectly with a member of the
- 36 legislative branch on behalf of someone other than himself to
- 37 influence legislative action, except in pursuit of the business of the
- 38 Commission.
- 39 **Sec. 9.** NRS 281A.280 is hereby amended to read as follows:
- 40 281A.280 ~~[H]~~ The Commission has jurisdiction to
- 41 investigate and take appropriate action regarding an alleged
- 42 violation of this chapter by a public officer or employee or former
- 43 public officer or employee in any proceeding commenced by:
- 44 ~~[(a)]~~ 1. The filing of a request for an opinion with the
- 45 Commission; or



1 ~~[(b)]~~ 2. The Commission on its own motion ~~[-~~
2 ~~2. The provisions of subsection 1 apply to a public officer or~~
3 ~~employee who:~~
4 ~~—(a) Currently holds public office or is publicly employed at the~~
5 ~~commencement of proceedings against him;~~
6 ~~—(b) Resigns or otherwise leaves his public office or employment;~~
7 ~~—(1) After the commencement of proceedings against him; or~~
8 ~~—(2) Within 1 year],~~
9 *↪ within 4 years* after the alleged violation or reasonable discovery
10 of the alleged violation.

11 **Sec. 10.** NRS 281A.290 is hereby amended to read as follows:
12 281A.290 The Commission shall:

13 1. Adopt ~~[(procedural)]~~ regulations:

14 (a) To facilitate the receipt of inquiries by the Commission;

15 (b) For the filing of a request for an opinion with the
16 Commission;

17 (c) For the withdrawal of a request for an opinion by the person
18 who filed the request; ~~[and]~~

19 (d) To facilitate the prompt rendition of opinions by the
20 Commission ~~[-]; and~~

21 *(e) As are otherwise necessary to carry out the provisions of*
22 *this chapter.*

23 2. Prescribe, by regulation, forms for the submission of
24 statements of financial disclosure and procedures for the submission
25 of statements of financial disclosure filed pursuant to NRS
26 281A.600 and forms and procedures for the submission of
27 statements of acknowledgment filed by public officers pursuant to
28 NRS 281A.500, maintain files of such statements and make the
29 statements available for public inspection.

30 3. Cause the making of such investigations as are reasonable
31 and necessary for the rendition of its opinions pursuant to this
32 chapter.

33 4. Except as otherwise provided in NRS 281A.600, inform the
34 Attorney General or district attorney of all cases of noncompliance
35 with the requirements of this chapter.

36 5. Recommend to the Legislature such further legislation as the
37 Commission considers desirable or necessary to promote and
38 maintain high standards of ethical conduct in government.

39 6. Publish a manual for the use of public officers and
40 employees that contains:

41 (a) Hypothetical opinions which are abstracted from opinions
42 rendered pursuant to subsection 1 of NRS 281A.440, for the future
43 guidance of all persons concerned with ethical standards in
44 government;



(b) Abstracts of selected opinions rendered pursuant to subsection 2 of NRS 281A.440; 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. 11. NRS 281A.400 is hereby amended to read as follows:

281A.400 A code of ethical standards is hereby established to govern the conduct of public officers and employees:

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

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

(a) "Commitment in a private capacity to the interests of that person" has the meaning ascribed to "commitment in a private capacity to the interests of others" in subsection ~~[8]~~ 7 of NRS 281A.420.

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

3. A public officer or employee shall not participate as an agent of government in the negotiation or execution of a contract between the government and *himself or* any private business in which he has a ~~{significant}~~ pecuniary interest.

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

5. If a public officer or employee acquires, through his public duties or relationships, any information which by law or practice is not at the time available to people generally, he shall not use the information to further the pecuniary interests of himself or any other person or business entity.

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

7. A public officer or employee, other than a member of the Legislature, shall not use governmental time, property, equipment or



1 other facility to benefit his personal or financial interest. This
2 subsection does not prohibit:

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

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

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

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

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

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

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

18 ➤ If a governmental agency incurs a cost as a result of a use that is
19 authorized pursuant to this subsection or would ordinarily charge a
20 member of the general public for the use, the public officer or
21 employee shall promptly reimburse the cost or pay the charge to the
22 governmental agency.

23 8. A member of the Legislature shall not:

24 (a) Use governmental time, property, equipment or other facility
25 for a nongovernmental purpose or for the private benefit of himself
26 or any other person. This paragraph does not prohibit:

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

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

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

32 (III) The use does not create the appearance of
33 impropriety;

34 (2) The use of mailing lists, computer data or other
35 information lawfully obtained from a governmental agency which is
36 available to members of the general public for nongovernmental
37 purposes; or

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

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

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



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

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

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

Sec. 12. NRS 281A.420 is hereby amended to read as follows:

281A.420 1. Except as otherwise provided in subsection 2 ~~2~~ ~~or 3~~, ~~for 4~~, a public officer may vote upon a matter if the benefit or detriment accruing to him as a result of the decision either individually or in a representative capacity as a member of a general business, profession, occupation or group is not greater than that accruing to any other member of the general business, profession, occupation or group.

2. ~~Except as otherwise provided in subsection 3, in~~ *In* addition to the requirements of the code of ethical standards, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:

(a) His acceptance of a gift or loan;

(b) His pecuniary interest; or

(c) His commitment in a private capacity to the interests of others.

➔ It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his pecuniary interest or his commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed in a private capacity is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection ~~4~~ *3* relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.

3. ~~In a county whose population is 400,000 or more, a member of a county or city planning commission shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in his situation would be materially affected by:~~

~~—(a) His acceptance of a gift or loan;~~

~~—(b) His direct pecuniary interest; or~~



~~—(c) His commitment to a member of his household or a person who is related to him by blood, adoption or marriage within the third degree of consanguinity or affinity.~~

~~➤ It must be presumed that the independence of judgment of a reasonable person would not be materially affected by his direct pecuniary interest or his commitment described in paragraph (c) where the resulting benefit or detriment accruing to him or to the other persons whose interests to which the member is committed is not greater than that accruing to any other member of the general business, profession, occupation or group. The presumption set forth in this subsection does not affect the applicability of the requirements set forth in subsection 4 relating to the disclosure of the direct pecuniary interest or commitment.~~

~~—4.]~~ A public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon any matter:

(a) Regarding which he has accepted a gift or loan;

(b) Which would reasonably be affected by his commitment in a private capacity to the interest of others; or

(c) In which he has a pecuniary interest,

➤ without disclosing sufficient information concerning the gift, loan, commitment or interest to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the person to whom he has a commitment, or upon his interest. Except as otherwise provided in subsection ~~{6;}~~ 5, such a disclosure must be made at the time the matter is considered. If the officer or employee is a member of a body which makes decisions, he shall make the disclosure in public to the Chairman and other members of the body. If the officer or employee is not a member of such a body and holds an appointive office, he shall make the disclosure to the supervisory head of his organization or, if he holds an elective office, to the general public in the area from which he is elected. This subsection does not require a public officer to disclose any campaign contributions that the public officer reported pursuant to NRS 294A.120 or 294A.125 or any contributions to a legal defense fund that the public officer reported pursuant to NRS 294A.286 in a timely manner.

~~{5;}~~ 4. Except as otherwise provided in NRS 241.0355, if a public officer declares to the body or committee in which the vote is to be taken that he will abstain from voting because of the requirements of this section, the necessary quorum to act upon and the number of votes necessary to act upon the matter, as fixed by any statute, ordinance or rule, is reduced as though the member abstaining were not a member of the body or committee.

~~{6;}~~ 5. After a member of the Legislature makes a disclosure pursuant to subsection ~~{4;}~~ 3, he may file with the Director of the



1 Legislative Counsel Bureau a written statement of his disclosure.
2 The written statement must designate the matter to which the
3 disclosure applies. After a Legislator files a written statement
4 pursuant to this subsection, he is not required to disclose orally his
5 interest when the matter is further considered by the Legislature or
6 any committee thereof. A written statement of disclosure is a public
7 record and must be made available for inspection by the public
8 during the regular office hours of the Legislative Counsel Bureau.

9 ~~[7.]~~ 6. The provisions of this section do not, under any
10 circumstances:

11 (a) Prohibit a member of the legislative branch from requesting
12 or introducing a legislative measure; or

13 (b) Require a member of the legislative branch to take any
14 particular action before or while requesting or introducing a
15 legislative measure.

16 ~~[8.]~~ 7. As used in this section, "commitment in a private
17 capacity to the interests of others" means a commitment to a person:

18 (a) Who is a member of his household;

19 (b) Who is related to him by blood, adoption or marriage within
20 the third degree of consanguinity or affinity;

21 (c) Who employs him or a member of his household;

22 (d) With whom he has a substantial and continuing business
23 relationship; or

24 (e) Any other commitment or relationship that is substantially
25 similar to a commitment or relationship described in this subsection.

26 **Sec. 13.** NRS 281A.430 is hereby amended to read as follows:

27 281A.430 1. Except as otherwise provided in this section and
28 NRS 281A.530 and 332.800, a public officer or employee shall not
29 bid on or enter into a contract between a governmental agency and
30 **himself or** any private business in which he has a ~~[significant]~~
31 pecuniary interest.

32 2. A member of any board, commission or similar body who is
33 engaged in the profession, occupation or business regulated by such
34 board or commission, may, in the ordinary course of his business,
35 bid on or enter into a contract with any governmental agency, except
36 the board, commission or body of which he is a member, if he has
37 not taken part in developing the contract plans or specifications and
38 he will not be personally involved in opening, considering or
39 accepting offers.

40 3. A full- or part-time faculty member or employee of the
41 Nevada System of Higher Education may bid on or enter into a
42 contract with a governmental agency, or may benefit financially or
43 otherwise from a contract between a governmental agency and a
44 private entity, if the contract complies with the policies established



1 by the Board of Regents of the University of Nevada pursuant to
2 NRS 396.255.

3 4. A public officer or employee, other than an officer or
4 employee described in subsection 2 or 3, may bid on or enter into a
5 contract with a governmental agency if ~~the~~ :

6 (a) *The* contracting process is controlled by *the* rules of open
7 competitive bidding ~~the~~ *or the rules of open competitive bidding*
8 *are not employed as a result of the applicability of NRS 332.112*
9 *or 332.148;*

10 (b) *The* sources of supply are limited ~~he~~ ;

11 (c) *He* has not taken part in developing the contract plans or
12 specifications ; and ~~he~~

13 (d) *He* will not be personally involved in opening, considering
14 or accepting offers.

15 ➔ If a public officer who is authorized to bid on or enter into a
16 contract with a governmental agency pursuant to this subsection is a
17 member of the governing body of the agency, the public officer,
18 pursuant to the requirements of NRS 281A.420, shall disclose his
19 interest in the contract and shall not vote on or advocate the
20 approval of the contract.

21 **Sec. 14.** NRS 281A.440 is hereby amended to read as follows:

22 281A.440 1. The Commission shall render an opinion
23 interpreting the statutory ethical standards and apply the standards to
24 a given set of facts and circumstances ~~as soon as practicable or~~
25 within 45 days after receiving a request ~~whichever is sooner.~~ on a
26 form prescribed by the Commission, from a public officer or
27 employee who is seeking guidance on questions which directly
28 relate to the propriety of his own past, present or future conduct as
29 an officer or employee ~~he~~ , *unless the public officer or*
30 *employee waives the time limit. The public officer or employee*
31 may also request the Commission to hold a public hearing regarding
32 the requested opinion. If a requested opinion relates to the propriety
33 of his own present or future conduct, the opinion of the Commission
34 is:

35 (a) Binding upon the requester as to his future conduct; and

36 (b) Final and subject to judicial review pursuant to NRS
37 233B.130, except that a proceeding regarding this review must be
38 held in closed court without admittance of persons other than those
39 necessary to the proceeding, unless this right to confidential
40 proceedings is waived by the requester.

41 2. The Commission may render an opinion interpreting the
42 statutory ethical standards and apply the standards to a given set of
43 facts and circumstances:

44 (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 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. Upon receipt of a request for an opinion by the Commission 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 60 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 the matter, unless the public officer or employee waives this time limit. The panel shall not determine that there is just and sufficient cause for the Commission to render an opinion unless the panel has provided the public officer or employee an opportunity to respond to the allegations against him. The panel shall cause a record of its proceedings in each matter to be kept, and such a record must



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1 remain confidential until the panel determines whether there is just
2 and sufficient cause for the Commission to render an opinion in the
3 matter.

4 4. If the panel determines that just and sufficient cause exists
5 for the Commission to render an opinion requested pursuant to this
6 section, the Commission shall hold a hearing and render an opinion
7 in the matter within ~~30~~ 60 days after the determination of just and
8 sufficient cause by the panel, unless the public officer or employee
9 waives this time limit.

10 5. Each request for an opinion that a public officer or employee
11 submits to the Commission pursuant to subsection 1, each opinion
12 rendered by the Commission in response to such a request and any
13 motion, determination, evidence or record of a hearing relating to
14 such a request are confidential unless the public officer or employee
15 who requested the opinion:

16 (a) Acts in contravention of the opinion, in which case the
17 Commission may disclose the request for the opinion, the contents
18 of the opinion and any motion, evidence or record of a hearing
19 related thereto;

20 (b) Discloses the request for the opinion, the contents of the
21 opinion, or any motion, evidence or record of a hearing related
22 thereto; or

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

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

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

43 (a) Requests an opinion from the Commission pursuant to
44 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. 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. 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



1 and the deliberations of the Commission and the panel on such
2 information or evidence are not subject to the provisions of chapter
3 241 of NRS.

4 **Sec. 15.** NRS 281A.500 is hereby amended to read as follows:

5 281A.500 1. Every public officer shall acknowledge that he
6 has received, read and understands the statutory ethical standards.
7 The acknowledgment must be on a form prescribed by the
8 Commission and:

9 *(a) If the public officer is elected,* must accompany the first
10 statement of financial disclosure that the public officer is required to
11 file with ~~{the Commission pursuant to NRS 281A.600 or}~~ the
12 Secretary of State pursuant to NRS 281A.610.

13 *(b) If the public officer is appointed, must be submitted to the*
14 *Commission within 30 days after his appointment.*

15 2. The Commission and the Secretary of State shall retain an
16 acknowledgment filed pursuant to this section for 6 years after the
17 date on which the acknowledgment was filed.

18 3. Willful refusal to execute and file the acknowledgment
19 required by this section constitutes nonfeasance in office and is a
20 ground for removal pursuant to NRS 283.440.

21 **Sec. 16.** NRS 281A.520 is hereby amended to read as follows:

22 281A.520 1. Except as otherwise provided in subsections 4
23 and 5, a public officer or employee shall not request or otherwise
24 cause a governmental entity to incur an expense or make an
25 expenditure to support or oppose:

26 (a) A ballot question.

27 (b) A candidate.

28 2. For the purposes of paragraph (b) of subsection 1, an
29 expense incurred or an expenditure made by a governmental entity
30 shall be considered an expense incurred or an expenditure made in
31 support of a candidate if:

32 (a) The expense is incurred or the expenditure is made for the
33 creation or dissemination of a pamphlet, brochure, publication,
34 advertisement or television programming that prominently features
35 the activities of a current public officer of the governmental entity
36 who is a candidate for a state, local or federal elective office; and

37 (b) The pamphlet, brochure, publication, advertisement or
38 television programming described in paragraph (a) is created or
39 disseminated during the period specified in subsection 3.

40 3. The period during which the provisions of subsection 2
41 apply to a particular governmental entity begins when a current
42 public officer of that governmental entity files a declaration of
43 candidacy or acceptance of candidacy and ends on the date of the
44 general election, general city election or special election for the



1 office for which the current public officer of the governmental entity
2 is a candidate.

3 4. The provisions of this section do not prohibit the creation or
4 dissemination of, or the appearance of a candidate in or on, as
5 applicable, a pamphlet, brochure, publication, advertisement or
6 television programming that:

7 (a) Is made available to the public on a regular basis and merely
8 describes the functions of:

9 (1) The public office held by the public officer who is the
10 candidate; or

11 (2) The governmental entity by which the public officer who
12 is the candidate is employed; or

13 (b) Is created or disseminated in the course of carrying out a
14 duty of:

15 (1) The public officer who is the candidate; or

16 (2) The governmental entity by which the public officer who
17 is the candidate is employed.

18 5. The provisions of this section do not prohibit an expense or
19 an expenditure incurred to create or disseminate a television
20 program that provides a forum for discussion or debate regarding a
21 ballot question, if persons both in support of and in opposition to the
22 ballot question participate in the television program.

23 6. As used in this section:

24 (a) "Governmental entity" means:

25 (1) The government of this State;

26 (2) An agency of the government of this State;

27 (3) A political subdivision of this State; and

28 (4) An agency of a political subdivision of this State.

29 (b) "Pamphlet, brochure, publication, advertisement or
30 television programming" includes, without limitation, a publication,
31 a public service announcement and any programming on a television
32 station created to provide community access to cable television. The
33 term does not include:

34 (1) A press release issued to the media by a governmental
35 entity; or

36 (2) The official website of a governmental entity.

37 ~~[(c) "Political subdivision" means a county, city or any other~~
38 ~~local government as defined in NRS 354.474.]~~

39 **Sec. 17.** NRS 281A.620 is hereby amended to read as follows:

40 281A.620 1. Statements of financial disclosure, as approved
41 pursuant to NRS 281A.470 or in such form as the Commission
42 otherwise prescribes, must contain the following information
43 concerning the candidate for public office or public officer:

44 (a) His length of residence in the State of Nevada and the district
45 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 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 281A.470.

3. As used in this section ~~f~~:

~~(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) “Household”~~, *“member of his household”* includes:

~~{(1)}~~ (a) The spouse of a candidate for public office or public officer;

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

~~{(3)}~~ (c) A person who lived in the home or dwelling of the candidate for public office or public officer for 6 months or more in the year immediately preceding the year in which the candidate for public office or public officer files the statement of financial disclosure.

Sec. 18. NRS 241.0355 is hereby amended to read as follows:

241.0355 1. A public body that is required to be composed of elected officials only may not take action by vote unless at least a majority of all the members of the public body vote in favor of the action. For purposes of this subsection, a public body may not count an abstention as a vote in favor of an action.

2. In a county whose population is 40,000 or more, the provisions of subsection ~~{5}~~ 4 of NRS 281A.420 do not apply to a public body that is required to be composed of elected officials only, unless before abstaining from the vote, the member of the public body receives and discloses the opinion of the legal counsel authorized by law to provide legal advice to the public body that the abstention is required pursuant to NRS 281A.420. The opinion of counsel must be in writing and set forth with specificity the factual circumstances and analysis leading to that conclusion.

Sec. 19. NRS 281.236 is hereby repealed.

TEXT OF REPEALED SECTION

281.236 Employment of certain former public officers and employees by regulated businesses prohibited; certain former public officers and employees prohibited from soliciting or accepting employment from certain persons contracting with State or local government; determination by Commission on Ethics.

1. A public utility or parent organization or subsidiary of a public utility shall not employ a former member of the Public Utilities Commission of Nevada for 1 year after the termination of his service on the Commission.



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2. A person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS shall not employ a former member of the State Gaming Control Board or the Nevada Gaming Commission for 1 year after the termination of the member's service on the Board or Commission.

3. In addition to the prohibitions set forth in subsections 1 and 2, a business or industry whose activities are governed by regulations adopted by a department, division or other agency of the Executive Branch of State Government shall not, except as otherwise provided in subsection 5, employ a former public officer or employee of the agency, except a clerical employee, for 1 year after the termination of his service or period of employment if:

(a) His principal duties included the formulation of policy contained in the regulations governing the business or industry;

(b) During the immediately preceding year, he directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ him; or

(c) As a result of his governmental service or employment, he possesses knowledge of the trade secrets of a direct business competitor.

4. A former public officer or employee of the State or a local government, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or local government, as applicable, for 1 year after the termination of the officer's or employee's service or period of employment, if:

(a) The amount of the contract exceeded \$25,000;

(b) The contract was awarded within the 12-month period immediately preceding the termination of the officer's or employee's service or period of employment; and

(c) The position held by the former public officer or employee at the time the contract was awarded allowed him to affect or influence the awarding of the contract.

5. A public officer or employee may request that the Commission on Ethics apply the relevant facts in his case to the provisions of subsection 3 or 4, as applicable, and determine whether relief from the strict application of those provisions is proper. If the Commission on Ethics determines that relief from the strict application of the provisions of subsection 3 or 4, as applicable, is not contrary to:

(a) The best interests of the public;

(b) The continued integrity of State Government; and



(c) The code of ethical standards prescribed in NRS 281A.400,
→ it may issue an opinion to that effect and grant such relief. The
opinion of the Commission on Ethics in such a case is subject to
judicial review.

6. As used in this section, “regulation” has the meaning
ascribed to it in NRS 233B.038.

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