

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

**Seventy-fifth Session
February 5, 2009**

The Senate Committee on Legislative Operations and Elections was called to order by Chair Joyce Woodhouse at 1:30 p.m. on Thursday, February 5, 2009, in Room 2149 of the Legislative Building, Carson City, 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 Joyce Woodhouse, Chair
Senator Bernice Mathews, Vice Chair
Senator Valerie Wiener
Senator John J. Lee
Senator William J. Raggio
Senator Barbara K. Cegavske
Senator Warren B. Hardy II

STAFF MEMBERS PRESENT:

Brenda Erdoes, Legislative Counsel
Pepper Sturm, Committee Policy Analyst
Karen Johansen, Committee Secretary

OTHERS PRESENT:

Patricia D. Cafferata, Executive Director, Nevada Commission on Ethics

CHAIR WOODHOUSE:

We have a request that we ask for a bill draft request (BDR) to prepare a joint resolution urging the President and Congress to continue to support the participation of the Republic of China on Taiwan in the World Health Organization. This would be similar to S.J.R. No. 15 of the 74th Session, which both Houses passed.

SENATOR CEGAVSKE MOVED TO INITIATE A BILL DRAFT REQUEST URGING THE PRESIDENT AND CONGRESS TO CONTINUE TO SUPPORT THE PARTICIPATION OF THE REPUBLIC OF CHINA ON TAIWAN IN THE WORLD HEALTH ORGANIZATION.

SENATOR MATHEWS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR RAGGIO WAS ABSENT FOR THE VOTE)

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CHAIR WOODHOUSE:

Today, we have a presentation concerning the Nevada Commission on Ethics by the Executive Director of the Commission, Patricia Cafferata.

PATRICIA CAFFERATA (Executive Director, Nevada Commission on Ethics):

Thank you. I am Patty Cafferata. I was an Assemblyman representing southwest Reno during the 1981 Session. In 1982, I was elected State Treasurer and became the first woman elected to a Constitutional Office in the State of Nevada. After completing law school, I became the District Attorney for Lincoln, Lander and Esmeralda Counties. In November 2007, I was appointed as the Executive Director of the Ethics Commission.

The Ethics Commission has eight members; four are appointed by the Legislature, and four are appointed by the Governor. Only four can be from one political party, and only four from one county. Currently, there are four Republicans, three Democrats and one vacancy. Three are from Washoe County, two are from Clark County, one from a rural county and one from Carson City. The Legislature and the Governor must each appoint a lawyer as well as a former elected official. The Governor can appoint a former State employee.

Sixty-five percent of our business comes from local government. Thirty-five percent of our caseload comes from state employees and state elected officials. Our funding is the same and is based on our caseload. The local government will pay 65 percent of our budget and the State will pay the remainder. Our duties include accepting all financial disclosure statements and acknowledgement statements for appointed officials. We provide ethics training

for State agencies and give advisory opinions. The advisory opinions are binding on the person requesting them. We have authority to file complaints against elected officials and public employees. There are two main areas of third party complaints: misuse of office, and disclosure and abstention.

We have 45 days by State law to render an opinion once an advisory form is submitted. We take the facts from the elected official or public employee, then contact the person and research the law. After discussion, a hearing is held, the Commission asks questions and an opinion is made. The opinion is binding and confidential. Three things are looked at when a third party complaint comes in: whether it involves an elected official or a public employee, whether it is an allegation of a violation of the ethic laws and whether there is sufficient evidence to bring the case forward. Next, the complaint is assigned to a panel of two people of opposite political parties. The panel reviews the complaint, and then the case is investigated to determine if it should go forward to a hearing. Fifty percent of the cases are rejected. If one person on the panel finds just and sufficient cause, the case goes forward. A hearing is set and heard by all Commissioners except the two on the panel. Once the case is heard, a written opinion is issued; if they do not like it, then the Commission goes to court.

If the Commission finds someone has violated the ethics laws, we can do a couple of things. One is to find it "unwillful," and by law, there is no penalty. If it is a willful violation, there are a variety of penalties that can be imposed. Fines for the first violation can be up to \$5,000, up to \$10,000 for the second violation and up to \$25,000 for the third violation. The law states we must refer a Constitutional State Officer for impeachment if one willful violation has occurred.

SENATOR LEE:

How much did you collect last year in fines, and do you offer payment plans?

MS. CAFFERATA:

If financial disclosure forms are not filed or are late, the Secretary of State will impose fines. In the annual report ([Exhibit C](#)), you will find the Commission collected \$1,100 in civil penalties during fiscal year (FY) 2007-2008.

SENATOR LEE: Where do the fines end up?

MS. CAFFERATA:

The fines are deposited in the General Fund. Traditionally, the Commission has had about 55 complaints per year. After the Governor's complaint was filed in July 2008, we received a great deal of publicity. At the end of the last fiscal year, we had 81 cases. Since the beginning of 2009, we have had 12 officials under investigation. If this trend continues, we will have well over 100 cases by the end of the year.

A point of confusion is the law has not been clear regarding who is required to file the acknowledgement forms, and we have not been receiving them. We have received about 200 forms, and we should have about 800 forms. Another confusing point is who must actually file them; the law states it must be the head of any local government. The question comes up whether that means school districts, hospital or sewer districts, airport authorities or convention authorities. A variety of government entities have not been reporting. This needs to be addressed and clarified.

Section A of the manual on *Basic Obligations of Nevada's Elected and Appointed Officials* ([Exhibit D](#), original is on file in the Research Library) discusses chapter 281A of the *Nevada Revised Statutes* on ethics in government. The Commission has worked on [Senate Bill 104](#); the Senate will hear this later. Section B is the Nevada Commission on Ethics and their opinions. Section C has the forms for filing, and Section D contains case studies on gifts.

[SENATE BILL 104](#): Makes various changes relating to ethics in government.
(BDR 23-418)

A classic case regarding gifts is about Nye County Commissioner Joni Eastley, who received a shawl from a representative of a Chinese company that wanted to do business at the county airport. Joni's policy was never to accept gifts. However, she accepted the gift, not wanting to insult the Chinese representative. Her intent was to give the shawl to a domestic violence program to raise money. The Commissioner asked for an advisory opinion. The law states she cannot accept gifts, and she was going to vote on whether this company can come in to her county and do business at the airport. Research indicated the value of the shawl was between \$19.95 and \$350. The Commission found she accepted the shawl officially on behalf of Nye County, and it was not hers. Because it was not hers, she could not give it away. She

was required to turn it over to Nye County, and county officials decided how to give it away. It is a fine line between violating the ethics law and insulting people. Most of the violations are unintentional, and it is difficult to know where to draw the line.

CHAIR WOODHOUSE:

Do we have any further questions? Seeing there are none, thank you for your presentation. There being no further business, we are adjourned at 2:10 p.m.

RESPECTFULLY SUBMITTED:

Karen Johansen,
Committee Secretary

APPROVED BY:

Senator Joyce Woodhouse, Chair

DATE: _____