

SENATE BILL NO. 380—SENATORS SMITH, WOODHOUSE,
SPEARMAN, PARKS; ATKINSON, FORD AND KIHUEN

MARCH 17, 2015

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions governing ethics in government.
(BDR 23-19)

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; providing an exception to the prohibition against public officers and employees requesting or otherwise causing state and local governments to, under certain circumstances, incur an expense or make an expenditure to support or oppose a ballot question; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 The Nevada Ethics in Government Law sets forth standards for the conduct of
- 2 public officers and employees, which standards are interpreted and enforced by the
- 3 Commission on Ethics. (Chapter 281A of NRS) Under the existing Ethics Law, a
- 4 public officer or employee is prohibited from requesting or otherwise causing a
- 5 governmental entity to, under certain circumstances, incur an expense or make an
- 6 expenditure to support or oppose a ballot question or a candidate. (NRS 281A.520)
- 7 This bill provides an exception to this prohibition for a public officer or employee
- 8 of a school district in certain circumstances with respect to a ballot question upon
- 9 which voting is not statewide and which affects the school district directly.

- 1 WHEREAS, Article 11 of the Nevada Constitution requires the
- 2 Legislature to encourage education, provide for a uniform system of
- 3 common schools, ensure the attendance of children at those schools
- 4 and, in addition to other available means, provide for the support
- 5 and maintenance of the schools by direct legislative appropriation
- 6 from the State General Fund; and



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1 WHEREAS, In *Guinn v. Legislature*, 119 Nev. 277, 286 (2003),
2 overruled in part on other grounds by *Nevadans for Nevada v.*
3 *Beers*, 122 Nev. 930 (2006), the Nevada Supreme Court stated that
4 the provisions of the Nevada Constitution “demonstrate that
5 education is a basic constitutional right in Nevada”; and

6 WHEREAS, Under NRS 386.350, the board of trustees of each
7 school district has broad, general powers to attain the goals for
8 which the public schools are established and to promote the welfare
9 of school children, including the power to establish and operate
10 schools and classes as deemed necessary and desirable; and

11 WHEREAS, The board of trustees of each school district also is
12 responsible, under NRS 393.010, for the management and control of
13 school property within the school district, except any property
14 belonging to a charter school, and, pursuant to NRS 393.100, is
15 required to keep school buildings “in such repair as is necessary for
16 the comfort and health of pupils and teachers”; and

17 WHEREAS, Support for education from the parents and families
18 of pupils is also important because a child is more likely to succeed
19 in school if his or her parents and family members are actively
20 engaged and involved in an equal partnership with the school in the
21 pupil’s academic progress and in activities that support the success
22 of the school and the school district; and

23 WHEREAS, In recognition of the critical role of parental
24 involvement, the State Board of Education is required by NRS
25 392.457 to adopt a policy to encourage effective involvement and
26 engagement by parents and families in support of the education of
27 their children and the board of trustees of each school district is
28 required to adopt a policy consistent with the policy adopted by the
29 State Board; and

30 WHEREAS, When questions are placed on the ballot that affect
31 the provision of education in a school district, it is crucial that the
32 residents of the school district have accurate, factual information
33 relating to the question, in order to make an informed decision when
34 casting their votes on the question; now therefore

35
36 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
37 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
38

39 **Section 1.** NRS 281A.520 is hereby amended to read as
40 follows:

41 281A.520 1. Except as otherwise provided in subsections 4
42 ~~and 5~~, **5 and 6**, a public officer or employee shall not request or
43 otherwise cause a governmental entity to incur an expense or make
44 an expenditure to support or oppose:

45 (a) A ballot question.



(b) A candidate.

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

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

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

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

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

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

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

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

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

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

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

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

6. *The provisions of this section do not prohibit a public officer or employee of a school district from requesting or causing the school district to incur an expense or make an expenditure to support or oppose a ballot question upon which voting is not statewide and which affects the school district directly if:*



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1 (a) *The cost or value related to the expense or expenditure is*
2 *nominal.*

3 (b) *The expense or expenditure is made for the creation or*
4 *dissemination of information that:*

5 (1) *Relates to the subject of the ballot question;*

6 (2) *Is factual in nature; and*

7 (3) *Does not advocate the passage or failure of the ballot*
8 *question.*

9 (c) *The expense or expenditure involves a limited use of the*
10 *time, property, equipment or other facility of the school district for*
11 *support of or opposition to a ballot question and the board of*
12 *trustees of the school district has established a policy allowing*
13 *such use.*

14 7. As used in this section:

15 (a) “Governmental entity” means:

16 (1) The government of this State;

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

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

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

20 (b) “Pamphlet, brochure, publication, advertisement or
21 television programming” includes, without limitation, a publication,
22 a public service announcement and any programming on a television
23 station created to provide community access to cable television. The
24 term does not include:

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

27 (2) The official *Internet* website of a governmental entity.

28 **Sec. 2.** This act becomes effective upon passage and approval.

