

ASSEMBLY BILL NO. 396—ASSEMBLYMAN DALY

MARCH 20, 2017

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises certain provisions relating to public officers and candidates for public office. (BDR 17-893)

FISCAL NOTE: Effect on Local Government: No.
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 public office; revising provisions governing the lobbying of State Legislators; revising provisions governing financial disclosure statements filed by candidates and public officers; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 With certain exceptions, the Nevada Lobbying Disclosure Act prohibits a
2 lobbyist from knowingly or willfully giving any gift to a Legislator, a member of
3 his or her immediate family or a member of legislative staff, regardless of the value
4 of the gift. The exceptions to the term "gift" in existing law include: (1) anything of
5 value provided for an educational or informational meeting, event or trip; and (2)
6 the cost of a party, meal, function or other social event to which every Legislator is
7 invited. (NRS 218H.060, 218H.930) **Sections 1 and 5** of this bill make an
8 additional exception from this prohibition for "de minimis gifts," which are defined
9 as gifts which have a cost or value under a certain amount, depending on whether
10 the gift is a gift of food or beverages and which are from one source in a calendar
11 day. **Section 7** of this bill prohibits a lobbyist from giving, or a Legislator, a
12 member of his or her immediate family or a member of legislative staff from
13 accepting, multiple de minimis gifts with the intent to circumvent the prohibition on
14 lobbyists giving gifts to a Legislator, a member of his or her immediate family or a
15 member of legislative staff.

16 Under existing law, a lobbyist is required to report certain expenditures made
17 by the lobbyist on behalf of a Legislator or certain organizations. (NRS 218H.050,
18 218H.400) **Section 4** of this bill adds to the definition of "expenditure" a de
19 minimis gift, requiring a lobbyist to report the expense of such a gift given to a
20 Legislator.

21 Under existing law, another exception from the prohibition against gifts from
22 lobbyists to a Legislator, a member of his or her immediate family or a member of
23 legislative staff is anything of value provided for an educational or informational
24 meeting, event or trip. **Section 3** of this bill excludes from the definition of



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“educational or informational meeting, event or trip”: (1) a meeting, event or trip attended by a Legislator or a member of the Legislator’s household that is undertaken or attended as part of his or her employment or independent contract if the expenses for food, beverages, registration fees, travel or lodging provided or given to the Legislator or member of the Legislator’s household are paid for or reimbursed as part of his or her employment or service as an independent contractor; and (2) a party, meal, function or other social event to which every Legislator is invited and where educational or informational displays and materials are available but no formal speech, presentation or other similar action to inform or educate the Legislators occurs. **Section 8** of this bill makes a conforming change with respect to the requirement for a public officer or candidate to report an educational or informational meeting, event or trip on his or her financial disclosure statement.

Section 5 of this bill also excludes the following from the prohibition against gifts from lobbyists to a Legislator, a member of his or her immediate family or a member of legislative staff: (1) gross income from property held for investment or revenue production, if the property was not acquired by improper means or as a gift from a lobbyist; (2) transactions involving the purchase and sale of goods or services conducted in the regular course of business at prices generally available to the public; (3) payments and benefits received in the context of an employment or independent contractor relationship; and (4) certain payments resulting from judgments, arbitrations or settlements.

With certain exceptions, a lobbyist is defined under existing law as a person who: (1) appears in person in the Legislative Building or any other building in which the Legislature or any of its standing committees hold meetings; and (2) communicates directly with a member of the Legislative Branch on behalf of someone other than himself or herself to influence legislative action regardless of whether any compensation is received for the communication. (NRS 218H.080)

Section 6 of this bill excludes from the definition of “lobbyist” a person who employs or enters into a contract for the services of a lobbyist, unless that person independently meets the definition of a lobbyist.

Under existing law, a public officer or candidate is required to disclose on his or her financial disclosure statement certain items of value received from an “interested person,” which is defined as a person who has a substantial interest in the legislative, administrative or political action of the public officer or the candidate if elected. (NRS 281.5586, 281.571) **Section 9** of this bill restricts the definition of “interested person” to a person whom the public officer or candidate knew or reasonably should have known has a substantial interest in the legislative, administrative or political action of the public officer or the candidate if elected.

Existing law requires certain appointed and elected public officers and candidates for public office to file financial disclosure statements containing certain information for the full calendar year immediately preceding the deadline for filing the statements. (NRS 281.559, 281.561) **Sections 10 and 11** of this bill eliminate the requirement to provide such financial information for the full calendar year immediately preceding appointment or candidacy if the public officer or candidate was not a public officer during that calendar year. Such a public officer or candidate is only required to disclose certain financial information for the 30 days immediately preceding his or her appointment or the last day to qualify as a candidate for office, as applicable.



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

Section 1. Chapter 218H of NRS is hereby amended by adding thereto a new section to read as follows:

“De minimis gift” means:

1. A gift of food or beverages which has a total cost or value of not more than \$20, excluding taxes, from any one source in a calendar day.

2. Any other gift which does not include food or beverages and has a total cost or value of not more than \$10, excluding taxes, from any one source in a calendar day.

Sec. 2. NRS 218H.030 is hereby amended to read as follows:

218H.030 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 218H.035 to 218H.110, inclusive, ***and section 1 of this act*** have the meanings ascribed to them in those sections.

Sec. 3. NRS 218H.045 is hereby amended to read as follows:

218H.045 1. “Educational or informational meeting, event or trip” means any meeting, event or trip undertaken or attended by a Legislator if, in connection with the meeting, event or trip:

(a) The Legislator or a member of the Legislator’s household receives anything of value from a lobbyist to undertake or attend the meeting, event or trip; and

(b) The Legislator provides or receives any education or information on matters relating to the legislative, administrative or political action of the Legislator.

2. The term includes, without limitation, any reception, gathering, conference, convention, discussion, forum, roundtable, seminar, symposium, speaking engagement or other similar meeting, event or trip with an educational or informational component.

3. The term does not include ~~the~~ :

(a) ***A*** meeting, event or trip undertaken or attended by a Legislator ***or a member of the Legislator’s household*** for personal reasons or for reasons relating to any professional or occupational license held by the Legislator ~~or~~ ***or a member of the Legislator’s household***, unless the Legislator ***or a member of the Legislator’s household*** participates as one of the primary speakers, instructors or presenters at the meeting, event or trip.

(b) ***A meeting, event or trip undertaken or attended by a Legislator or a member of the Legislator’s household if the meeting, event or trip is undertaken or attended as part of his or her employment or contract as an independent contractor and any expenses of the Legislator or member of the Legislator’s***



1 *household were paid for or reimbursed as part of his or her*
2 *employment or service as an independent contractor.*

3 *(c) A party, meal, function or other social event to which every*
4 *Legislator is invited where educational or informational displays*
5 *or materials are available but no formal speech, presentation or*
6 *other similar action to inform or educate the Legislators occurs.*

7 4. For the purposes of this section, "anything of value"
8 includes, without limitation, any actual expenses for food,
9 beverages, registration fees, travel or lodging provided or given to
10 or paid for the benefit of the Legislator or a member of the
11 Legislator's household or reimbursement for any such actual
12 expenses paid by the Legislator or a member of the Legislator's
13 household, if the expenses are incurred on a day during which the
14 Legislator or a member of the Legislator's household undertakes or
15 attends the meeting, event or trip or during which the Legislator or a
16 member of the Legislator's household travels to or from the
17 meeting, event or trip.

18 **Sec. 4.** NRS 218H.050 is hereby amended to read as follows:

19 218H.050 1. "Expenditure" means any of the following acts
20 by a lobbyist while the Legislature is in a regular or special session:

21 (a) Any payment, conveyance, transfer, distribution, deposit,
22 advance, loan, forbearance, subscription, pledge or rendering of
23 money, services or anything else of value; or

24 (b) Any contract, agreement, promise or other obligation,
25 whether or not legally enforceable, to make any such expenditure.

26 2. The term includes, without limitation:

27 (a) Anything of value provided for an educational or
28 informational meeting, event or trip.

29 (b) The cost of a party, meal, function or other social event to
30 which every Legislator is invited.

31 *(c) The cost or value of a de minimis gift.*

32 3. The term does not include:

33 (a) A prohibited gift.

34 (b) A lobbyist's personal expenditures for his or her own food,
35 beverages, lodging, travel expenses or membership fees or dues.

36 **Sec. 5.** NRS 218H.060 is hereby amended to read as follows:

37 218H.060 1. "Gift" means any payment, conveyance,
38 transfer, distribution, deposit, advance, loan, forbearance,
39 subscription, pledge or rendering of money, services or anything
40 else of value, unless consideration of equal or greater value is
41 received.

42 2. The term does not include:

43 (a) Any political contribution of money or services related to a
44 political campaign.



1 (b) Any commercially reasonable loan made in the ordinary
2 course of business.

3 (c) Anything of value provided for an educational or
4 informational meeting, event or trip.

5 (d) The cost of a party, meal, function or other social event to
6 which every Legislator is invited, including, without limitation, the
7 cost of food or beverages provided at the party, meal, function or
8 other social event. *For the purposes of this paragraph, there is a
9 presumption that every Legislator was invited if the party, meal,
10 function or other social event is held in a governmental building
11 or facility or the invitation for or notice of the party, meal,
12 function or event indicates that it is a legislative event.*

13 (e) Any ceremonial gifts received for a birthday, wedding,
14 anniversary, holiday or other ceremonial occasion from a donor who
15 is not a lobbyist.

16 (f) Anything of value received from a person who is:

17 (1) Related to the recipient, or to the spouse or domestic
18 partner of the recipient, by blood, adoption, marriage or domestic
19 partnership within the third degree of consanguinity or affinity; or

20 (2) A member of the recipient's household.

21 (g) *Gross income from property held for investment or revenue
22 production, if the property was not acquired by improper means or
23 as a gift from a lobbyist.*

24 (h) *Transactions involving the purchase and sale of goods or
25 services conducted in the regular course of business at prices
26 generally available to the public.*

27 (i) *Payments and benefits received as a result of employment
28 or services as an independent contractor, including, without
29 limitation, payments and benefits made pursuant to a policy,
30 custom or practice with respect to employment or contract which
31 the employer adopted without regard to the position of the
32 employee or independent contractor as a Legislator.*

33 (j) *The payment or delivery of anything of value in satisfaction
34 of a judgment of any court or a decision or award of an arbitrator
35 or a compromise, adjustment, settlement, release or other
36 disposition of any claim, complaint or grievance.*

37 (k) *A de minimis gift.*

38 **Sec. 6.** NRS 218H.080 is hereby amended to read as follows:

39 218H.080 1. "Lobbyist" means, except as limited by
40 subsection 2, a person who:

41 (a) Appears in person in the Legislative Building or any other
42 building in which the Legislature or any of its standing committees
43 hold meetings; and

44 (b) Communicates directly with a member of the Legislative
45 Branch on behalf of someone other than himself or herself to



1 influence legislative action whether or not any compensation is
2 received for the communication.

3 2. "Lobbyist" does not include:

4 (a) Persons who confine their activities to formal appearances
5 before legislative committees and who clearly identify themselves
6 and the interest or interests for whom they are testifying.

7 (b) Employees of a bona fide news medium who meet the
8 definition of "lobbyist" *set forth in subsection 1* only in the course
9 of their professional duties and who contact Legislators for the sole
10 purpose of carrying out their news gathering function.

11 (c) Employees of departments, divisions or agencies of the state
12 government who appear before legislative committees only to
13 explain the effect of legislation related to their departments,
14 divisions or agencies.

15 (d) Employees of the Legislature, Legislators, legislative
16 agencies or legislative commissions.

17 (e) Elected officers of this State and its political subdivisions
18 who confine their lobbying activities to issues directly related to the
19 scope of the office to which they were elected.

20 (f) Persons who contact the Legislators who are elected from the
21 district in which they reside.

22 *(g) Persons who employ or enter into a contract for the*
23 *services of a lobbyist, unless those persons independently meet the*
24 *definition of "lobbyist" set forth in subsection 1.*

25 **Sec. 7.** NRS 218H.930 is hereby amended to read as follows:

26 218H.930 1. A lobbyist shall not knowingly or willfully
27 make any false statement or misrepresentation of facts:

28 (a) To any member of the Legislative Branch in an effort to
29 persuade or influence the member in his or her official actions.

30 (b) In a registration statement or report concerning lobbying
31 activities filed with the Director.

32 2. A lobbyist shall not knowingly or willfully give any gift to a
33 member of the Legislative Branch or a member of his or her
34 immediate family, whether or not the Legislature is in a regular or
35 special session. *A lobbyist shall not divide a gift with a cost or*
36 *value that exceeds the cost or value of a de minimis gift into*
37 *multiple de minimis gifts with the knowledge and intent to*
38 *circumvent the prohibition in this section or the reporting*
39 *requirements of NRS 218H.400.*

40 3. A member of the Legislative Branch or a member of his or
41 her immediate family shall not knowingly or willfully solicit or
42 accept any gift from a lobbyist, whether or not the Legislature is in a
43 regular or special session. *A member of the Legislative Branch or a*
44 *member of his or her immediate family shall not solicit or accept a*
45 *gift with a cost or value that exceeds the cost or value of a de*



minimis gift that has been divided into multiple de minimis gifts with the knowledge and intent to circumvent the prohibition in this section or the filing requirements of NRS 281.559 or 281.561.

4. A person who employs or uses a lobbyist shall not make that lobbyist's compensation or reimbursement contingent in any manner upon the outcome of any legislative action.

5. Except during the period permitted by NRS 218H.200, a person shall not knowingly act as a lobbyist without being registered as required by that section.

6. Except as otherwise provided in subsection 7, a member of the Legislative or Executive Branch of the State Government and an elected officer or employee of a political subdivision shall not receive compensation or reimbursement other than from the State or the political subdivision for personally engaging in lobbying.

7. An elected officer or employee of a political subdivision may receive compensation or reimbursement from any organization whose membership consists of elected or appointed public officers.

8. A lobbyist shall not instigate the introduction of any legislation for the purpose of obtaining employment to lobby in opposition to that legislation.

9. A lobbyist shall not make, commit to make or offer to make a monetary contribution to a Legislator, the Lieutenant Governor, the Lieutenant Governor-elect, the Governor or the Governor-elect during the period beginning:

(a) Thirty days before a regular session and ending 30 days after the final adjournment of a regular session;

(b) Fifteen days before a special session is set to commence and ending 15 days after the final adjournment of a special session, if:

(1) The Governor sets a specific date for the commencement of the special session that is more than 15 days after the date on which the Governor issues the proclamation calling for the special session pursuant to Section 9 of Article 5 of the Nevada Constitution; or

(2) The members of the Legislature set a date on or before which the Legislature is to convene the special session that is more than 15 days after the date on which the Secretary of State receives one or more substantially similar petitions signed, in the aggregate, by the required number of members calling for the special session pursuant to Section 2A of Article 4 of the Nevada Constitution; or

(c) The day after:

(1) The date on which the Governor issues the proclamation calling for the special session and ending 15 days after the final adjournment of the special session if the Governor sets a specific date for the commencement of the special session that is 15 or fewer



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1 days after the date on which the Governor issues the proclamation
2 calling for the special session; or

3 (2) The date on which the Secretary of State receives one or
4 more substantially similar petitions signed, in the aggregate, by the
5 required number of members of the Legislature calling for the
6 special session and ending 15 days after the final adjournment of
7 the special session if the members set a date on or before which the
8 Legislature is to convene the special session that is 15 or fewer days
9 after the date on which the Secretary of State receives the petitions.

10 **Sec. 8.** NRS 281.5583 is hereby amended to read as follows:

11 281.5583 1. "Educational or informational meeting, event or
12 trip" means any meeting, event or trip undertaken or attended by a
13 public officer or candidate if, in connection with the meeting, event or
14 or trip:

15 (a) The public officer or candidate or a member of the public
16 officer's or candidate's household receives anything of value to
17 undertake or attend the meeting, event or trip from an interested
18 person; and

19 (b) The public officer or candidate provides or receives any
20 education or information on matters relating to the legislative,
21 administrative or political action of the public officer or the
22 candidate if elected.

23 2. The term includes, without limitation, any reception,
24 gathering, conference, convention, discussion, forum, roundtable,
25 seminar, symposium, speaking engagement or other similar
26 meeting, event or trip with an educational or informational
27 component.

28 3. The term does not include ~~the~~ :

29 (a) A meeting, event or trip undertaken or attended by a public
30 officer or candidate for personal reasons or for reasons relating to
31 any professional or occupational license held by the public officer or
32 candidate ~~the~~ *or a member of the public officer's or candidate's*
33 *household*, unless the public officer or candidate *or a member of*
34 *the public officer's or candidate's household* participates as one of
35 the primary speakers, instructors or presenters at the meeting, event or
36 or trip.

37 (b) *A meeting, event or trip undertaken or attended by a public*
38 *officer or candidate or a member of the public officer's or*
39 *candidate's household if the meeting, event or trip is undertaken*
40 *or attended as part of his or her employment or contract as an*
41 *independent contractor and any expenses of the public officer or*
42 *candidate or member of the public officer's or candidate's*
43 *household were paid for or reimbursed as part of his or her*
44 *employment or service as an independent contractor.*



4. For the purposes of this section, "anything of value" includes, without limitation, any actual expenses for food, beverages, registration fees, travel or lodging provided or given to or paid for the benefit of the public officer or candidate or a member of the public officer's or candidate's household or reimbursement for any such actual expenses paid by the public officer or candidate or a member of the public officer's or candidate's household, if the expenses are incurred on a day during which the public officer or candidate or a member of the public officer's or candidate's household undertakes or attends the meeting, event or trip or during which the public officer or candidate or a member of the public officer's or candidate's household travels to or from the meeting, event or trip.

Sec. 9. NRS 281.5586 is hereby amended to read as follows:

281.5586 1. "Interested person" means a person who has a substantial interest in the legislative, administrative or political action of a public officer or a candidate if elected ~~and~~ *and the public officer or candidate knew or, based on all the facts and circumstances, reasonably should have known that the person has such a substantial interest.*

2. The term includes, without limitation:

(a) A lobbyist as defined in NRS 218H.080.

(b) A group of interested persons acting in concert, whether or not formally organized.

Sec. 10. NRS 281.559 is hereby amended to read as follows:

281.559 1. Except as otherwise provided in this section and NRS 281.572, if a public officer who was appointed to the office for which the public officer is serving is entitled to receive annual compensation of \$6,000 or more for serving in that office or if the public officer was appointed to the office of Legislator, the public officer shall file electronically with the Secretary of State a financial disclosure statement, as follows:

(a) A public officer appointed to fill the unexpired term of an elected or appointed public officer shall file a financial disclosure statement within 30 days after the public officer's appointment.

(b) Each public officer appointed to fill an office shall file a financial disclosure statement on or before January 15 of:

(1) Each year of the term, including the year in which the public officer leaves office; and

(2) The year immediately following the year in which the public officer leaves office, unless the public officer leaves office before January 15 in the prior year.

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2. Except as otherwise provided in this subsection, the statement must disclose the required information for the full calendar year immediately preceding the date of filing.

~~{2-}~~ The statement of a public officer who is required to file a statement pursuant to paragraph (a) of subsection 1 must disclose only the information required by subsections 5 and 6 of NRS 281.571 for the 30 days immediately preceding the date of the public officer's appointment if the public officer was not serving in a public office for which the public officer was required to file a financial disclosure statement pursuant to paragraph (b) of subsection 1 or subsection 1 of NRS 281.561 during the calendar year in which the public officer was appointed.

3. If a person is serving in a public office for which the person is required to file a statement pursuant to subsection 1, the person may use the statement the person files for that initial office to satisfy the requirements of subsection 1 for every other public office to which the person is appointed and in which the person is also serving.

~~{3-}~~ 4. A judicial officer who is appointed to fill the unexpired term of a predecessor or to fill a newly created judgeship shall file a financial disclosure statement pursuant to the requirements of the Nevada Code of Judicial Conduct. To the extent practicable, such a statement must include, without limitation, all information required to be included in a financial disclosure statement pursuant to NRS 281.571.

Sec. 11. NRS 281.561 is hereby amended to read as follows:

281.561 1. Except as otherwise provided in this section and NRS 281.572, each candidate who will be entitled to receive annual compensation of \$6,000 or more for serving in the office that the candidate is seeking, each candidate for the office of Legislator and each public officer who was elected to the office for which the public officer is serving shall file electronically with the Secretary of State a financial disclosure statement, as follows:

(a) A candidate for nomination, election or reelection to public office shall file a financial disclosure statement not later than the 10th day after the last day to qualify as a candidate for the office.

~~{The}~~ Except as otherwise provided in subsection 2, the statement must disclose the ~~{required}~~ information required by subsections 5 and 6 of NRS 281.571 for the ~~{full calendar year immediately preceding the date of filing and for the period between January 1 of the year in which the election for the office will be held and}~~ 30 days immediately preceding the last day to qualify as a candidate for the office. The filing of a financial disclosure statement for a portion of a calendar year pursuant to this paragraph does not relieve the candidate of the requirement of filing a financial disclosure



1 statement for the full calendar year pursuant to paragraph (b) in the
2 immediately succeeding year, if the candidate is elected to the
3 office.

4 (b) Each public officer shall file a financial disclosure statement
5 on or before January 15 of:

6 (1) Each year of the term, including the year in which the
7 public officer leaves office; and

8 (2) The year immediately following the year in which the
9 public officer leaves office, unless the public officer leaves office
10 before January 15 in the prior year.

11 ➤ The statement must disclose the required information for the full
12 calendar year immediately preceding the date of filing.

13 2. ~~{Except as otherwise provided in this subsection, if}~~ *If* a
14 candidate is serving in a public office for which the candidate is
15 required to file a statement pursuant to paragraph (b) of subsection 1
16 or subsection 1 of NRS 281.559, the ~~{candidate need not file the~~
17 ~~statement required by subsection 1 for the full calendar year for~~
18 ~~which the candidate previously filed a statement. The}~~ provisions of
19 ~~{this}~~ subsection *1* do not relieve the candidate of the requirement
20 pursuant to paragraph ~~{(a)}~~ *(b)* of subsection 1 *or subsection 1 of*
21 *NRS 281.559* to file a financial disclosure statement for the ~~{period~~
22 ~~between January 1 of the year in which the election for the office~~
23 ~~will be held and the last day to qualify as a candidate for the office.}~~
24 *full calendar year immediately preceding the date of filing.*

25 3. A person elected pursuant to NRS 548.285 to the office of
26 supervisor of a conservation district is not required to file a financial
27 disclosure statement relative to that office pursuant to subsection 1.

28 4. A candidate for judicial office or a judicial officer shall file a
29 financial disclosure statement pursuant to the requirements of the
30 Nevada Code of Judicial Conduct. To the extent practicable, such a
31 statement must include, without limitation, all information required
32 to be included in a financial disclosure statement pursuant to
33 NRS 281.571.

34 **Sec. 12.** This act becomes effective upon passage and
35 approval.

