

ASSEMBLY BILL NO. 121—ASSEMBLYMAN DALY

FEBRUARY 11, 2019

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises certain provisions relating to public officers and candidates for public office. (BDR 17-776)

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:

With certain exceptions, the Nevada Lobbying Disclosure Act prohibits a lobbyist from knowingly or willfully giving any gift to a Legislator, a member of his or her immediate family or a member of legislative staff, regardless of the value of the gift. The exceptions to the term "gift" in existing law include: (1) anything of value provided for an educational or informational meeting, event or trip; and (2) the cost of a party, meal, function or other social event to which every Legislator is invited. (NRS 218H.045, 218H.060, 218H.930)

Section 1 of this bill excludes from the definition of "educational or informational meeting, event or trip": (1) a meeting, event or trip undertaken or attended by a Legislator or a member of the Legislator's household as part of his or her employment or independent contract if anything of value, such as food, beverages, registration fees, travel or lodging, received by the Legislator or member of the Legislator's household for the meeting, event or trip was 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 educate or inform the Legislators occurs. **Section 1** also extends to a member of the Legislator's household the exception to the definition of "educational or informational meeting, event or trip" in existing law for Legislators for a meeting, event or trip undertaken or attended for personal reasons or, in certain circumstances, for reasons relating to the Legislator's professional or occupational license. **Section 4** of this bill makes conforming changes with respect to the



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requirement for a public officer or candidate to report an educational or informational meeting, event or trip on his or her financial disclosure statement.

For purposes of the exception from the term "gift" in the Nevada Lobbying Disclosure Act for the cost of a party, meal, function or social event to which every Legislator is invited, **section 2** of this bill creates a presumption that every Legislator was invited if the party, meal, function or other social event is held in a governmental building or facility or the invitation or notice indicates it is a legislative event. **Section 2** 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 or deliveries resulting from judgments, arbitrations or settlements.

With certain exceptions, existing law defines "lobbyist" 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 3** 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.

Existing law requires certain appointed and elected public officers and candidates for public office to file financial disclosure statements. (NRS 281.556-281.581) 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 5** 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 that financial disclosure statements contain certain information for the full calendar year immediately preceding the deadline for filing the statements. (NRS 281.559, 281.561) **Sections 6 and 7** of this bill eliminate the requirement for a public officer or candidate 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 30 days immediately preceding 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. 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 anything of value received by the Legislator or member of the Legislator’s household for the meeting, event or trip was paid for or reimbursed as part of his or her employment or service as an independent contractor.*

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

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 Legislator or a member of the Legislator’s household or reimbursement for any such actual expenses paid by the Legislator or a member of the Legislator’s



household, if the expenses are incurred on a day during which the Legislator or a member of the Legislator's household undertakes or attends the meeting, event or trip or during which the Legislator or a member of the Legislator's household travels to or from the meeting, event or trip.

Sec. 2. NRS 218H.060 is hereby amended to read as follows:

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

2. The term does not include:

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

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

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

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

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

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

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

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

(g) 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.

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

(i) Payments and benefits received as a result of employment or services as an independent contractor, including, without limitation, payments and benefits made pursuant to a policy, custom or practice with respect to employment or contract which



1 *the employer adopted without regard to the position of the*
2 *employee or independent contractor as a Legislator.*

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

7 **Sec. 3.** NRS 218H.080 is hereby amended to read as follows:

8 218H.080 1. "Lobbyist" means, except as limited by
9 subsection 2, a person who:

10 (a) Appears in person in the Legislative Building or any other
11 building in which the Legislature or any of its standing committees
12 hold meetings; and

13 (b) Communicates directly with a member of the Legislative
14 Branch on behalf of someone other than himself or herself to
15 influence legislative action, whether or not any compensation is
16 received for the communication.

17 2. "Lobbyist" does not include:

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

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

25 (c) Employees of departments, divisions or agencies of the state
26 government who appear before legislative committees only to
27 explain the effect of legislation related to their departments,
28 divisions or agencies.

29 (d) Employees of the Legislature, Legislators, legislative
30 agencies or legislative commissions.

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

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

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

39 **Sec. 4.** NRS 281.5583 is hereby amended to read as follows:

40 281.5583 1. "Educational or informational meeting, event or
41 trip" means any meeting, event or trip undertaken or attended by a
42 public officer or candidate if, in connection with the meeting, event
43 or trip:



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

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

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 public officer or candidate for personal reasons or for reasons relating to any professional or occupational license held by the public officer or candidate ~~or a member of the public officer's or candidate's household~~, unless the public officer or candidate ~~or a member of the public officer's or candidate'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 public officer or candidate or a member of the public officer's or candidate'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 anything of value received by the public officer or candidate or member of the public officer's or candidate's household for the meeting, event or trip was paid for or reimbursed as part of his or her 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.



1 **Sec. 5.** NRS 281.5586 is hereby amended to read as follows:

2 281.5586 1. "Interested person" means a person who has a
3 substantial interest in the legislative, administrative or political
4 action of a public officer or a candidate if elected ~~[H]~~ *and the public*
5 *officer or candidate knew or, based on all the facts and*
6 *circumstances, reasonably should have known that the person has*
7 *such a substantial interest.*

8 2. The term includes, without limitation:

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

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

12 **Sec. 6.** NRS 281.559 is hereby amended to read as follows:

13 281.559 1. Except as otherwise provided in this section and
14 NRS 281.572, if a public officer who was appointed to the office for
15 which the public officer is serving is entitled to receive annual
16 compensation of \$6,000 or more for serving in that office or if the
17 public officer was appointed to the office of Legislator, the public
18 officer shall file electronically with the Secretary of State a financial
19 disclosure statement, as follows:

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

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

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

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

30 ~~[The]~~

31 2. *Except as otherwise provided in this subsection, the*
32 *statement must disclose the required information for the full*
33 *calendar year immediately preceding the date of filing. The*
34 *statement of a public officer who is required to file a statement*
35 *pursuant to paragraph (a) of subsection 1 must disclose only the*
36 *information required by subsections 5 and 6 of NRS 281.571 for*
37 *the 30 days immediately preceding the date of the public officer's*
38 *appointment if the public officer was not serving in a public office*
39 *for which the public officer was required to file a financial*
40 *disclosure statement pursuant to paragraph (b) of subsection 1 or*
41 *subsection 1 of NRS 281.561 during the calendar year in which*
42 *the public officer was appointed.*

43 ~~[2.]~~ 3. If a person is serving in a public office for which the
44 person is required to file a statement pursuant to subsection 1, the
45 person may use the statement the person files for that initial office to



1 satisfy the requirements of subsection 1 for every other public office
2 to which the person is appointed and in which the person is also
3 serving.

4 ~~3.1~~ 4. A judicial officer who is appointed to fill the unexpired
5 term of a predecessor or to fill a newly created judgeship shall file a
6 financial disclosure statement pursuant to the requirements of the
7 Nevada Code of Judicial Conduct. To the extent practicable, such a
8 statement must include, without limitation, all information required
9 to be included in a financial disclosure statement pursuant to
10 NRS 281.571.

11 **Sec. 7.** NRS 281.561 is hereby amended to read as follows:

12 281.561 1. Except as otherwise provided in this section and
13 NRS 281.572, each candidate who will be entitled to receive annual
14 compensation of \$6,000 or more for serving in the office that the
15 candidate is seeking, each candidate for the office of Legislator and
16 each public officer who was elected to the office for which the
17 public officer is serving shall file electronically with the Secretary
18 of State a financial disclosure statement, as follows:

19 (a) A candidate for nomination, election or reelection to public
20 office shall file a financial disclosure statement not later than the
21 10th day after the last day to qualify as a candidate for the office.
22 ~~[The]~~ *Except as otherwise provided in subsection 2, the* statement
23 must disclose the ~~[required]~~ information *required by subsections 5*
24 *and 6 of NRS 281.571* for the ~~[full-calendar-year immediately~~
25 ~~preceding the date of filing and for the period between January 1 of~~
26 ~~the year in which the election for the office will be held and]~~ *30*
27 *days immediately preceding* the last day to qualify as a candidate
28 for the office. The filing of a financial disclosure statement for a
29 portion of a calendar year pursuant to this paragraph does not relieve
30 the candidate of the requirement of filing a financial disclosure
31 statement for the full calendar year pursuant to paragraph (b) in the
32 immediately succeeding year, if the candidate is elected to the
33 office.

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

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

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

41 ➡ The statement must disclose the required information for the full
42 calendar year immediately preceding the date of filing.

43 2. ~~[Except as otherwise provided in this subsection, if]~~ *If* a
44 candidate is serving in a public office for which the candidate is
45 required to file a statement pursuant to paragraph (b) of subsection 1



1 or subsection 1 of NRS 281.559, the ~~candidate need not file the~~
2 ~~statement required by subsection 1 for the full calendar year for~~
3 ~~which the candidate previously filed a statement. The~~ provisions of
4 ~~this~~ subsection **1** do not relieve the candidate of the requirement
5 pursuant to paragraph ~~(a)~~ **(b)** of subsection 1 **or subsection 1 of**
6 **NRS 281.559** to file a financial disclosure statement for the ~~period~~
7 ~~between January 1 of the year in which the election for the office~~
8 ~~will be held and the last day to qualify as a candidate for the office.]~~
9 **full calendar year immediately preceding the date of filing.**

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

13 4. A candidate for judicial office or a judicial officer shall file a
14 financial disclosure statement pursuant to the requirements of the
15 Nevada Code of Judicial Conduct. To the extent practicable, such a
16 statement must include, without limitation, all information required
17 to be included in a financial disclosure statement pursuant to
18 NRS 281.571.

19 **Sec. 8.** This act becomes effective upon passage and approval.

