

SENATE BILL NO. 147—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE COMMISSION ON ETHICS)

FEBRUARY 18, 2003

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to Commission on Ethics. (BDR 23-500)

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; requiring certain public officers to submit electronically to the Commission on Ethics a list of public officers and candidates for public office; revising the prohibition against a public officer or employee using his position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for certain persons; removing a duplicative provision relating to the disclosure of certain conflicts of interest; revising certain deadlines related to investigations and determinations concerning ethics violations; eliminating the authority of the Commission to impose a civil penalty against a person who submits to the Commission a false accusation or information in bad faith or with a vexatious purpose; revising the provisions governing the filing of statements of financial disclosure; repealing the provision prohibiting a person from making, using, publishing or disseminating a false, deceptive or misleading statement to induce the Commission to render an opinion or take action relating thereto; and providing other matters properly relating thereto.

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



* S B 1 4 7 R 1 *

1 **Section 1.** Chapter 281 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *A list of each public officer who is required to file a*
4 *statement of financial disclosure pursuant to NRS 281.561 must*
5 *be submitted electronically to the Commission, in a form*
6 *prescribed by the Commission, on or before December 1 of each*
7 *year by:*

8 (a) *Each county clerk for all public officers of the county and*
9 *other local governments within the county other than cities;*

10 (b) *Each city clerk for all public officers of the city;*

11 (c) *The Director of the Legislative Counsel Bureau for all*
12 *public officers of the Legislative Branch; and*

13 (d) *The Chief of the Budget Division of the Department of*
14 *Administration for all public officers of the Executive Branch.*

15 2. *The Secretary of State, each county clerk, or the registrar*
16 *of voters of the county if one was appointed pursuant to NRS*
17 *244.164, and each city clerk shall submit electronically to the*
18 *Commission, in a form prescribed by the Commission, a list of*
19 *each candidate for public office who filed a declaration of*
20 *candidacy or acceptance of candidacy with that officer within 10*
21 *days after the last day to qualify as a candidate for the applicable*
22 *office.*

23 **Sec. 2.** NRS 281.431 is hereby amended to read as follows:

24 281.431 As used in NRS 281.411 to 281.581, inclusive, *and*
25 *section 1 of this act*, unless the context otherwise requires, the
26 words and terms defined in NRS 281.432 to 281.4375, inclusive,
27 have the meanings ascribed to them in those sections.

28 **Sec. 3.** NRS 281.4635 is hereby amended to read as follows:

29 281.4635 1. In addition to any other duties imposed upon
30 him, the Executive Director shall:

31 (a) Maintain complete and accurate records of all transactions
32 and proceedings of the Commission.

33 (b) Receive requests for opinions pursuant to NRS 281.511,
34 294A.345 or 294A.346.

35 (c) Gather information and conduct investigations regarding
36 requests for opinions received by the Commission and submit
37 recommendations to the panel appointed pursuant to NRS 281.462
38 regarding whether there is just and sufficient cause to render an
39 opinion in response to a particular request.

40 (d) Recommend to the Commission any regulations or
41 legislation that he considers desirable or necessary to improve the
42 operation of the Commission and maintain high standards of ethical
43 conduct in government.

44 (e) Upon the request of any public officer or the employer of a
45 public employee, conduct training on the requirements of this



1 chapter, the rules and regulations adopted by the Commission and
2 previous opinions of the Commission. In any such training, the
3 Executive Director shall emphasize that he is not a member of the
4 Commission and that only the Commission may issue opinions
5 concerning the application of the statutory ethical standards to any
6 given set of facts and circumstances. The Commission ~~{shall}~~ *may*
7 charge a reasonable fee to cover the costs of training provided by
8 the Executive Director pursuant to this subsection.

9 (f) Perform such other duties, not inconsistent with law, as may
10 be required by the Commission.

11 2. The Executive Director shall, within the limits of legislative
12 appropriation, employ such persons as are necessary to carry out any
13 of his duties relating to:

- 14 (a) The administration of the affairs of the Commission;
- 15 (b) The review of statements of financial disclosure; and
- 16 (c) The investigation of matters under the jurisdiction of the
17 Commission.

18 **Sec. 4.** NRS 281.475 is hereby amended to read as follows:

19 281.475 1. The Chairman and Vice Chairman of the
20 Commission may administer oaths.

21 2. The Commission, upon majority vote, may issue a subpoena
22 to compel the attendance of a witness and the production of books
23 and papers. Upon the request of the Executive Director or the public
24 officer or public employee who is the subject of a request for an
25 opinion, the Chairman or, in his absence, the Vice Chairman, may
26 issue a subpoena to compel the attendance of a witness and the
27 production of books and papers.

28 3. Before issuing a subpoena to a public officer or public
29 employee who is the subject of a request for an opinion, the
30 Executive Director shall submit a written request to the public
31 officer or public employee requesting:

- 32 (a) His appearance as a witness; or
- 33 (b) His production of any books and papers relating to the
34 request for an opinion.

35 4. Each written request submitted by the Executive Director
36 pursuant to subsection 3 must specify the time and place for the
37 attendance of the public officer or public employee or the
38 production of any books and papers, and designate with certainty
39 the books and papers requested, if any. If the public officer or public
40 employee fails or refuses to attend at the time and place specified or
41 produce the books and papers requested by the Executive Director
42 within 5 business days after receipt of the request, the Chairman
43 may issue the subpoena. Failure of the public officer or public
44 employee to comply with the written request of the Executive
45 Director ~~{constitutes good cause for extension}~~ *shall be deemed a*



1 *waiver by the public officer or public employee* of the time set forth
2 in subsections 3 and 4 of NRS 281.511.

3 5. If any witness refuses to attend, testify or produce any books
4 and papers as required by the subpoena, the Chairman of the
5 Commission may report to the district court by petition, setting forth
6 that:

7 (a) Due notice has been given of the time and place of
8 attendance of the witness or the production of the books and papers;

9 (b) The witness has been subpoenaed by the Commission
10 pursuant to this section; and

11 (c) The witness has failed or refused to attend or produce the
12 books and papers required by the subpoena before the Commission,
13 or has refused to answer questions propounded to him, and asking
14 for an order of the court compelling the witness to attend and testify
15 or produce the books and papers before the Commission.

16 6. Except as otherwise provided in this subsection, upon such a
17 petition, the court shall enter an order directing the witness to appear
18 before the court at a time and place to be fixed by the court in its
19 order, the time to be not more than 10 days after the date of the
20 order, and then and there show cause why he has not attended,
21 testified or produced the books or papers before the Commission. If
22 the witness has been subpoenaed by the Commission in response to
23 a request for an opinion filed pursuant to NRS 294A.345 or
24 294A.346, the court shall direct the witness to appear before the
25 court as expeditiously as possible to allow the Commission to render
26 its opinion within the time required by NRS 281.477. A certified
27 copy of the order must be served upon the witness.

28 7. If it appears to the court that the subpoena was regularly
29 issued by the Commission, the court shall enter an order that the
30 witness appear before the Commission, at the time and place fixed
31 in the order, and testify or produce the required books and papers.
32 Upon failure to obey the order, the witness must be dealt with as for
33 contempt of court.

34 **Sec. 5.** NRS 281.481 is hereby amended to read as follows:

35 281.481 A code of ethical standards is hereby established to
36 govern the conduct of public officers and employees:

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

42 2. A public officer or employee shall not use his position in
43 government to secure or grant unwarranted privileges, preferences,
44 exemptions or advantages for himself, ~~any member of his~~
45 ~~household,~~ any business entity in which he has a significant



1 pecuniary interest, or any ~~other person.~~ *person to whom he has a*
2 *commitment in a private capacity to the interests of that person.* As
3 used in this subsection ~~["unwarranted"]~~ :

4 (a) *"Commitment in a private capacity to the interests of that*
5 *person" has the meaning ascribed to "commitment in a private*
6 *capacity to the interests of others" in subsection 7 of NRS 281.501.*

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

9 3. A public officer or employee shall not participate as an agent
10 of government in the negotiation or execution of a contract between
11 the government and any private business in which he has a
12 significant pecuniary interest.

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

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

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

25 7. A public officer or employee, other than a member of the
26 Legislature, shall not use governmental time, property, equipment or
27 other facility to benefit his personal or financial interest. This
28 subsection does not prohibit:

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

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

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

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

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

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

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

44 If a governmental agency incurs a cost as a result of a use that is
45 authorized pursuant to this subsection or would ordinarily charge a



1 member of the general public for the use, the public officer or
2 employee shall promptly reimburse the cost or pay the charge to the
3 governmental agency.

4 8. A member of the Legislature shall not:

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

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

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

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

13 (III) The use does not create the appearance of
14 impropriety;

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

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

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

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

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

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

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

32 **Sec. 6.** NRS 281.501 is hereby amended to read as follows:

33 281.501 1. Except as otherwise provided in subsection 2 or 3,
34 a public officer may vote upon a matter if the benefit or detriment
35 accruing to him as a result of the decision either individually or in a
36 representative capacity as a member of a general business,
37 profession, occupation or group is not greater than that accruing to
38 any other member of the general business, profession, occupation or
39 group.

40 2. In addition to the requirements of the code of ethical
41 standards, a public officer shall not vote upon or advocate the
42 passage or failure of, but may otherwise participate in the
43 consideration of a matter with respect to which the independence of
44 judgment of a reasonable person in his situation would be materially
45 affected by:



- 1 (a) His acceptance of a gift or loan;
- 2 (b) His pecuniary interest; or
- 3 (c) His commitment in a private capacity to the interests of
- 4 others.

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

16 3. A public officer or employee shall not approve, disapprove,
17 vote, abstain from voting or otherwise act upon any matter:

- 18 (a) Regarding which he has accepted a gift or loan;
- 19 (b) Which would reasonably be affected by his commitment in a
20 private capacity to the interest of others; or

21 (c) In which he has a pecuniary interest,
22 without disclosing sufficient information concerning the gift, loan,
23 commitment or interest to inform the public of the potential effect of
24 the action or abstention upon the person who provided the gift or
25 loan, upon the person to whom he has a commitment, or upon his
26 interest. Except as otherwise provided in subsection ~~6.~~ 5, such a
27 disclosure must be made at the time the matter is considered. If the
28 officer or employee is a member of a body which makes decisions,
29 he shall make the disclosure in public to the Chairman and other
30 members of the body. If the officer or employee is not a member of
31 such a body and holds an appointive office, he shall make the
32 disclosure to the supervisory head of his organization or, if he holds
33 an elective office, to the general public in the area from which he is
34 elected. This subsection does not require a public officer to disclose
35 any campaign contributions that the public officer reported pursuant
36 to NRS 294A.120 or 294A.125 in a timely manner.

37 4. If a public officer declares to the body or committee in
38 which the vote is to be taken that he will abstain from voting
39 because of the requirements of this section, the necessary quorum to
40 act upon and the number of votes necessary to act upon the matter,
41 as fixed by any statute, ordinance or rule, is reduced as though the
42 member abstaining were not a member of the body or committee.

43 5. ~~If a public officer is voting on a matter which affects public~~
44 ~~employees, he shall make a full public disclosure of any personal~~
45 ~~pecuniary interest which he may have in the matter.~~



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

11 ~~7.]~~ 6. The provisions of this section do not, under any
12 circumstances:

13 (a) Prohibit a member of the legislative branch from requesting
14 or introducing a legislative measure; or

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

18 ~~8.]~~ 7. As used in this section, "commitment in a private
19 capacity to the interests of others" means a commitment to a person:

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

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

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

24 (d) With whom he has a substantial and continuing business
25 relationship; or

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

28 **Sec. 7.** NRS 281.511 is hereby amended to read as follows:

29 281.511 1. The Commission shall render an opinion
30 interpreting the statutory ethical standards and apply the standards to
31 a given set of facts and circumstances upon request *, on a form*
32 *prescribed by the Commission*, from a public officer or employee
33 who is seeking guidance on questions which directly relate to the
34 propriety of his own past, present or future conduct as an officer or
35 employee. He may also request the Commission to hold a public
36 hearing regarding the requested opinion. If a requested opinion
37 relates to the propriety of his own present or future conduct, the
38 opinion of the Commission is:

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

40 (b) Final and subject to judicial review pursuant to NRS
41 233B.130, except that a proceeding regarding this review must be
42 held in closed court without admittance of persons other than those
43 necessary to the proceeding, unless this right to confidential
44 proceedings is waived by the requester.



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

4 (a) Upon request from a specialized or local ethics committee.

5 (b) Except as otherwise provided in this subsection, upon
6 request from a person, if the requester ~~is~~

7 ~~(1) Submits all~~ submits:

8 (1) *The request on a form prescribed by the Commission;*
9 *and*

10 (2) *All* related evidence deemed necessary by the Executive
11 Director and the panel to make a determination of whether there is
12 just and sufficient cause to render an opinion in the matter . ~~is~~ and

13 ~~(2) Signs a statement on a form prescribed by the~~
14 ~~Commission in which he affirms that:~~

15 ~~(I) The accusation or information contained in the request~~
16 ~~is true;~~

17 ~~(II) He did not submit the request in bad faith or with a~~
18 ~~vexatious purpose; and~~

19 ~~(III) He understands that the Commission may impose~~
20 ~~penalties upon him pursuant to NRS 281.551 if the Commission~~
21 ~~determines that the accusation or information is false and was~~
22 ~~submitted in bad faith or with a vexatious purpose.]~~

23 (c) Upon the Commission's own motion regarding the propriety
24 of conduct by a public officer or employee. The Commission shall
25 not initiate proceedings pursuant to this paragraph based solely upon
26 an anonymous complaint.

27 The Commission shall not render an opinion interpreting the
28 statutory ethical standards or apply those standards to a given set of
29 facts and circumstances if the request is submitted by a person who
30 is incarcerated in a correctional facility in this state.

31 3. Upon receipt of a request for an opinion by the Commission
32 or upon the motion of the Commission pursuant to subsection 2, the
33 Executive Director shall investigate the facts and circumstances
34 relating to the request to determine whether there is just and
35 sufficient cause for the Commission to render an opinion in the
36 matter. The public officer or employee that is the subject of the
37 request may submit to the Executive Director any information
38 relevant to the request. The Executive Director shall complete an
39 investigation and present his recommendation relating to just and
40 sufficient cause to the panel within ~~15~~ 45 days after the receipt of
41 or the motion of the Commission for the request, unless the ~~panel~~
42 ~~extends the time for a period not to exceed 30 days upon the request~~
43 ~~of the Executive Director for good cause shown or the request of~~
44 ~~the~~ public officer or employee ~~is~~ *waives this time limit.* If the
45 Executive Director determines after an investigation that just and



1 sufficient cause exists for the Commission to render an opinion in
2 the matter, he shall state such a recommendation in writing,
3 including, without limitation, the specific evidence that supports his
4 recommendation. If, after an investigation, the Executive Director
5 does not determine that just and sufficient cause exists for the
6 Commission to render an opinion in the matter, he shall state such a
7 recommendation in writing, including, without limitation, the
8 specific reasons for his recommendation. Within 15 days after the
9 Executive Director has provided his recommendation in the matter
10 to the panel, the panel shall make a final determination regarding
11 whether just and sufficient cause exists for the Commission to
12 render an opinion in the matter, unless the ~~Commission extends the~~
13 ~~time for a period not to exceed 30 days upon the request of the panel~~
14 ~~for good cause shown or the request of the~~ public officer or
15 employee ~~[-] waives this time limit.~~ The panel shall not determine
16 that there is just and sufficient cause for the Commission to render
17 an opinion unless the panel has provided the public officer or
18 employee an opportunity to respond to the allegations against him.
19 The panel shall cause a record of its proceedings in each matter to
20 be kept , and such a record must remain confidential until the panel
21 determines whether there is just and sufficient cause for the
22 Commission to render an opinion in the matter.

23 4. If the panel determines that just and sufficient cause exists
24 for the Commission to render an opinion requested pursuant to this
25 section, the Commission shall hold a hearing and render an opinion
26 in the matter within 30 days after the determination of just and
27 sufficient cause by the panel, unless the ~~Commission extends the~~
28 ~~time for a period not to exceed 30 days for good cause shown or~~
29 ~~upon the request of the~~ public officer or employee ~~[-] waives this~~
30 ~~time limit.~~

31 5. Each request for an opinion that a public officer or employee
32 submits to the Commission pursuant to subsection 1, each opinion
33 rendered by the Commission in response to such a request and any
34 motion, determination, evidence or record of a hearing relating to
35 such a request are confidential unless the public officer or employee
36 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



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

4 6. Except as otherwise provided in this subsection, each
5 document in the possession of the Commission or its staff that is
6 related to a request for an opinion regarding a public officer or
7 employee submitted to or initiated by the Commission pursuant to
8 subsection 2, including, without limitation, the Commission's copy
9 of the request and all materials and information gathered in an
10 investigation of the request, is confidential until the panel
11 determines whether there is just and sufficient cause to render an
12 opinion in the matter. The public officer or employee who is the
13 subject of a request for an opinion submitted or initiated pursuant to
14 subsection 2 may in writing authorize the Commission to make its
15 files, material and information which are related to the request
16 publicly available.

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

21 (a) Requests an opinion from the Commission pursuant to
22 paragraph (b) of subsection 2 may:

23 (1) At any time, reveal to a third party the alleged conduct of
24 a public officer or employee underlying the request that he filed
25 with the Commission or the substance of testimony, if any, that he
26 gave before the Commission.

27 (2) After the panel determines whether there is just and
28 sufficient cause to render an opinion in the matter, reveal to a third
29 party the fact that he requested an opinion from the Commission.

30 (b) Gives testimony before the Commission may:

31 (1) At any time, reveal to a third party the substance of
32 testimony that he gave before the Commission.

33 (2) After the panel determines whether there is just and
34 sufficient cause to render an opinion in the matter, reveal to a third
35 party the fact that he gave testimony before the Commission.

36 8. Whenever the Commission holds a hearing pursuant to this
37 section, the Commission shall:

38 (a) Notify the person about whom the opinion was requested of
39 the place and time of the Commission's hearing on the matter;

40 (b) Allow the person to be represented by counsel; and

41 (c) Allow the person to hear the evidence presented to the
42 Commission and to respond and present evidence on his own
43 behalf.

44 The Commission's hearing may be held no sooner than 10 days after
45 the notice is given unless the person agrees to a shorter time.



1 9. If a person who is not a party to a hearing before the
2 Commission, including, without limitation, a person who has
3 requested an opinion pursuant to paragraph (a) or (b) of subsection
4 2, wishes to ask a question of a witness at the hearing, the person
5 must submit the question to the Executive Director in writing. The
6 Executive Director may submit the question to the Commission if he
7 deems the question relevant and appropriate. This subsection does
8 not require the Commission to ask any question submitted by a
9 person who is not a party to the proceeding.

10 10. If a person who requests an opinion pursuant to subsection
11 1 or 2 does not:

- 12 (a) Submit all necessary information to the Commission; and
13 (b) Declare by oath or affirmation that he will testify
14 truthfully,
15 the Commission may decline to render an opinion.

16 11. For good cause shown, the Commission may take
17 testimony from a person by telephone or video conference.

18 12. For the purposes of NRS 41.032, the members of the
19 Commission and its employees shall be deemed to be exercising or
20 performing a discretionary function or duty when taking an action
21 related to the rendering of an opinion pursuant to this section.

22 13. A meeting or hearing that the Commission or the panel
23 holds to receive information or evidence concerning the propriety of
24 the conduct of a public officer or employee pursuant to this section
25 and the deliberations of the Commission and the panel on such
26 information or evidence are not subject to the provisions of chapter
27 241 of NRS.

28 **Sec. 8.** NRS 281.551 is hereby amended to read as follows:

29 281.551 1. In addition to any other penalty provided by law,
30 the Commission may impose on a public officer or employee or
31 former public officer or employee civil penalties:

32 (a) Not to exceed \$5,000 for a first willful violation of this
33 chapter;

34 (b) Not to exceed \$10,000 for a separate act or event that
35 constitutes a second willful violation of this chapter; and

36 (c) Not to exceed \$25,000 for a separate act or event that
37 constitutes a third willful violation of this chapter.

38 2. In addition to other penalties provided by law, the
39 Commission may impose a civil penalty not to exceed \$5,000 and
40 assess an amount equal to the amount of attorney's fees and costs
41 actually and reasonably incurred by the person about whom an
42 opinion was requested pursuant to NRS 281.511, against a person
43 who ~~is~~:

44 ~~—(a) Submits to the Commission, in bad faith or with a vexatious~~
45 ~~purpose, an accusation or information that is false; or~~



1 ~~—(b) Prevents.] prevents,~~ interferes with or attempts to prevent or
2 interfere with the discovery or investigation of a violation of this
3 chapter.

4 3. If the Commission finds that a violation of a provision of
5 this chapter by a public officer or employee or former public officer
6 or employee has resulted in the realization by another person of a
7 financial benefit, the Commission may, in addition to other penalties
8 provided by law, require the current or former public officer or
9 employee to pay a civil penalty of not more than twice the amount
10 so realized.

11 4. In addition to any other penalty provided by law, by an
12 affirmative vote of two-thirds of the Commission, the Commission
13 may impose on any person who violates any provision of NRS
14 294A.345 or 294A.346 a civil penalty not to exceed \$5,000. The
15 Commission shall not impose a civil penalty for a violation of NRS
16 294A.345 unless the Commission has made the specific findings
17 required pursuant to subsection 7 of NRS 281.477.

18 5. If the Commission finds that:

19 (a) A willful violation of this chapter has been committed by a
20 public officer removable from office by impeachment only, it shall
21 file a report with the appropriate person responsible for commencing
22 impeachment proceedings as to its finding. The report must contain
23 a statement of the facts alleged to constitute the violation.

24 (b) A willful violation of this chapter has been committed by a
25 public officer removable from office pursuant to NRS 283.440, the
26 Commission may file a proceeding in the appropriate court for
27 removal of the officer.

28 (c) Three or more willful violations have been committed by a
29 public officer removable from office pursuant to NRS 283.440, the
30 Commission shall file a proceeding in the appropriate court for
31 removal of the officer.

32 6. An action taken by a public officer or employee or former
33 public officer or employee relating to NRS 281.481, 281.491,
34 281.501 or 281.505 is not a willful violation of a provision of those
35 sections if the public officer or employee:

36 (a) Relied in good faith upon the advice of the legal counsel
37 retained by the public body which the public officer represents or by
38 the employer of the public employee or upon the manual published
39 by the Commission pursuant to NRS 281.471;

40 (b) Was unable, through no fault of his own, to obtain an
41 opinion from the Commission before the action was taken; and

42 (c) Took action that was not contrary to a prior published
43 opinion issued by the Commission.

44 7. In addition to other penalties provided by law, a public
45 employee who willfully violates a provision of NRS 281.481,



1 281.491, 281.501 or 281.505 is subject to disciplinary proceedings
2 by his employer and must be referred for action in accordance to the
3 applicable provisions governing his employment.

4 8. NRS 281.481 to 281.541, inclusive, do not abrogate or
5 decrease the effect of the provisions of the Nevada Revised Statutes
6 which define crimes or prescribe punishments with respect to the
7 conduct of public officers or employees. If the Commission finds
8 that a public officer or employee has committed a willful violation
9 of this chapter which it believes may also constitute a criminal
10 offense, the Commission shall refer the matter to the Attorney
11 General or the district attorney, as appropriate, for a determination
12 of whether a crime has been committed that warrants prosecution.

13 9. The imposition of a civil penalty pursuant to subsections 1 to
14 4, inclusive, is a final decision for the purposes of judicial review.

15 10. ~~In determining for the purposes of this section whether a
16 person submitted an accusation or information in bad faith or with a
17 vexatious purpose, the Commission may consider various factors,
18 including, without limitation:~~

19 ~~—(a) When the accusation or information was filed with or
20 provided to the Commission;~~

21 ~~—(b) Whether and, if applicable, in what manner the person who
22 submitted the accusation or information publicly disseminated the
23 accusation or information before the Commission determined
24 whether there was just and sufficient cause to render an opinion in
25 the matter;~~

26 ~~—(c) Whether the accusation or information sets forth alleged
27 facts or details that are misleading or deceptive; and~~

28 ~~—(d) Whether the accusation or information or the conduct of the
29 person who submitted the accusation or information:~~

30 ~~—(1) Would be perceived as annoying or harassing by a
31 reasonable person; or~~

32 ~~—(2) Demonstrates conscious disregard for the process and
33 procedures established by the Commission.~~

34 ~~11.]~~ A finding by the Commission that a public officer or
35 employee has violated any provision of this chapter must be
36 supported by a preponderance of the evidence unless a greater
37 burden is otherwise prescribed by law.

38 **Sec. 9.** NRS 281.573 is hereby amended to read as follows:

39 281.573 1. Except as otherwise provided in subsection 2,
40 statements of financial disclosure required by the provisions of NRS
41 281.561 and 281.571 must be retained by the Commission,
42 Secretary of State, county clerk, *or registrar of voters of the county*
43 *if one was appointed pursuant to NRS 244.164*, and city clerk for
44 6 years after the date of filing.



1 2. For public officers who serve more than one term in either
2 the same public office or more than one public office, the period
3 prescribed in subsection 1 begins on the date of the filing of the last
4 statement of financial disclosure for the last public office held.

5 **Sec. 10.** NRS 281.575 is hereby amended to read as follows:

6 281.575 The Secretary of State and each county *clerk, or the*
7 *registrar of voters of the county if one was appointed pursuant to*
8 *NRS 244.164*, or city clerk who receives from a candidate for public
9 office a declaration of candidacy, acceptance of candidacy or
10 certificate of candidacy shall give to the candidate the form
11 prescribed by the Commission for the making of a statement of
12 financial disclosure, accompanied by instructions on how to
13 complete the form, where it must be filed and the time by which it
14 must be filed.

15 **Sec. 11.** NRS 281.581 is hereby amended to read as follows:

16 281.581 1. A candidate for public office or public officer
17 who *willfully* fails to file his statement of financial disclosure *or*
18 *willfully fails to file his statement of financial disclosure* in a
19 timely manner pursuant to NRS 281.561 is subject to a civil penalty
20 and payment of court costs and attorney's fees. Except as otherwise
21 provided in subsection 3, the amount of the civil penalty is:

22 (a) If the statement is filed not more than ~~[7 days late, \$25 for~~
23 ~~each day the statement is late.]~~ *10 days after the applicable*
24 *deadline set forth in subsection 1 of NRS 281.561, \$25.*

25 (b) If the statement is filed more than ~~[7 days late]~~ *10 days* but
26 not more than ~~[15 days late, \$175 for the first 7 days, plus \$50 for~~
27 ~~each additional day the statement is late.]~~ *20 days after the*
28 *applicable deadline set forth in subsection 1 of NRS 281.561, \$50.*

29 (c) If the statement is filed more than ~~[15 days late, \$575 for the~~
30 ~~first 15 days, plus \$100 for each additional day the statement is~~
31 ~~late.]~~ *20 days but not more than 30 days after the applicable*
32 *deadline set forth in subsection 1 of NRS 281.561, \$100.*

33 (d) *If the statement is filed more than 30 days but not more*
34 *than 45 days after the applicable deadline set forth in subsection 1*
35 *of NRS 281.561, \$250.*

36 (e) *If the statement is not filed or is filed more than 45 days*
37 *after the applicable deadline set forth in subsection 1 of NRS*
38 *281.561, \$2,000.*

39 2. The Commission may, for good cause shown, waive ~~for~~
40 ~~reduce~~ the civil penalty.

41 3. The civil penalty imposed for a violation of this section must
42 not exceed the annual compensation for the office for which the
43 statement was filed.

44 4. The civil penalty must be recovered in a civil action brought
45 in the name of the State of Nevada by the Commission in a court of



1 competent jurisdiction and deposited by the Commission in the
2 account for credit to the State General Fund in the bank designated
3 by the State Treasurer.

4 5. If the Commission waives a civil penalty pursuant to
5 subsection 2, the Commission shall:

6 (a) Create a record which sets forth that the civil penalty has
7 been waived and describes the circumstances that constitute the
8 good cause shown; and

9 (b) Ensure that the record created pursuant to paragraph (a) is
10 available for review by the general public.

11 **6. As used in this section, "willfully" means deliberately,**
12 **intentionally and knowingly.**

13 **Sec. 12.** NRS 281.437 and 281.525 are hereby repealed.

14 **Sec. 13.** This act becomes effective upon passage and
15 approval.

TEXT OF REPEALED SECTIONS

281.437 "Vexatious" defined. "Vexatious" means lacking justification and intended to harass.

281.525 Use of false or misleading statement regarding opinion of Commission; penalty.

1. It is unlawful for any person to make, use, publish or disseminate any statement which is known or through the exercise of reasonable care should be known to be false, deceptive or misleading in order to induce the Commission to render an opinion or to take any action related to the rendering of an opinion.

2. Any person who knowingly violates the provisions of subsection 1 is guilty of a misdemeanor.

3. The Commission shall inform the Attorney General or the district attorney of any case involving a violation of subsection 1.

