

SENATE BILL NO. 16—SENATOR CARE

PREFILED JANUARY 24, 2003

Referred to Committee on Government Affairs

SUMMARY—Clarifies effect of abstention from voting by member of certain public bodies on necessary quorum and number of votes necessary to take action on matters. (BDR 19-377)

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 public bodies; clarifying the effect of an abstention from voting by a member of certain public bodies on the necessary quorum and number of votes necessary to take action on matters; and providing other matters properly relating thereto.

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

1 Section 1. NRS 241.0355 is hereby amended to read as  
2 follows:

3 241.0355 1. A public body that is required to be composed of  
4 elected officials only may not take action by vote unless at least a  
5 majority of all the members of the public body vote in favor of the  
6 action. For purposes of this ~~section,~~ *subsection*, a public body may  
7 not count an abstention as a vote in favor of an action.

8 2. *The provisions of subsection 4 of NRS 281.501 do not*  
9 *apply to a public body that is required to be composed of elected*  
10 *officials only.*

11 Sec. 2. NRS 281.501 is hereby amended to read as follows:

12 281.501 1. Except as otherwise provided in subsection 2 or 3,  
13 a public officer may vote upon a matter if the benefit or detriment  
14 accruing to him as a result of the decision either individually or in a  
15 representative capacity as a member of a general business,



1 profession, occupation or group is not greater than that accruing to  
2 any other member of the general business, profession, occupation or  
3 group.

4 2. In addition to the requirements of the Code of Ethical  
5 Standards, a public officer shall not vote upon or advocate the  
6 passage or failure of, but may otherwise participate in the  
7 consideration of a matter with respect to which the independence of  
8 judgment of a reasonable person in his situation would be materially  
9 affected by:

- 10 (a) His acceptance of a gift or loan;
- 11 (b) His pecuniary interest; or
- 12 (c) His commitment in a private capacity to the interests of  
13 others.

14 It must be presumed that the independence of judgment of a  
15 reasonable person would not be materially affected by his pecuniary  
16 interest or his commitment in a private capacity to the interests of  
17 others where the resulting benefit or detriment accruing to him or to  
18 the other persons whose interests to which the member is committed  
19 in a private capacity is not greater than that accruing to any other  
20 member of the general business, profession, occupation or group.  
21 The presumption set forth in this subsection does not affect the  
22 applicability of the requirements set forth in subsection 3 relating to  
23 the disclosure of the pecuniary interest or commitment in a private  
24 capacity to the interests of others.

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

- 27 (a) Regarding which he has accepted a gift or loan;
- 28 (b) Which would reasonably be affected by his commitment in a  
29 private capacity to the interest of others; or
- 30 (c) In which he has a pecuniary interest,

31 without disclosing sufficient information concerning the gift, loan,  
32 commitment or interest to inform the public of the potential effect of  
33 the action or abstention upon the person who provided the gift or  
34 loan, upon the person to whom he has a commitment, or upon his  
35 interest. Except as otherwise provided in subsection 6, such a  
36 disclosure must be made at the time the matter is considered. If the  
37 officer or employee is a member of a body which makes decisions,  
38 he shall make the disclosure in public to the chairman and other  
39 members of the body. If the officer or employee is not a member of  
40 such a body and holds an appointive office, he shall make the  
41 disclosure to the supervisory head of his organization or, if he holds  
42 an elective office, to the general public in the area from which he is  
43 elected. This subsection does not require a public officer to disclose  
44 any campaign contributions that the public officer reported pursuant  
45 to NRS 294A.120 or 294A.125 in a timely manner.



1 4. ~~HB~~ *Except as otherwise provided in NRS 241.0355, if* a  
2 public officer declares to the body or committee in which the vote is  
3 to be taken that he will abstain from voting because of the  
4 requirements of this section, the necessary quorum to act upon and  
5 the number of votes necessary to act upon the matter, as fixed by  
6 any statute, ordinance or rule, is reduced as though the member  
7 abstaining were not a member of the body or committee.

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

11 6. After a member of the Legislature makes a disclosure  
12 pursuant to subsection 3, he may file with the Director of the  
13 Legislative Counsel Bureau a written statement of his disclosure.  
14 The written statement must designate the matter to which the  
15 disclosure applies. After a Legislator files a written statement  
16 pursuant to this subsection, he is not required to disclose orally his  
17 interest when the matter is further considered by the Legislature or  
18 any committee thereof. A written statement of disclosure is a public  
19 record and must be made available for inspection by the public  
20 during the regular office hours of the Legislative Counsel Bureau.

21 7. The provisions of this section do not, under any  
22 circumstances:

23 (a) Prohibit a member of the legislative branch from requesting  
24 or introducing a legislative measure; or

25 (b) Require a member of the legislative branch to take any  
26 particular action before or while requesting or introducing a  
27 legislative measure.

28 8. As used in this section, "commitment in a private capacity to  
29 the interests of others" means a commitment to a person:

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

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

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

34 (d) With whom he has a substantial and continuing business  
35 relationship; or

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

38 **Sec. 3.** This act becomes effective upon passage and approval.

