
ASSEMBLY BILL NO. 64—ASSEMBLYMEN CARPENTER, GOICOECHEA,
MARVEL, GRADY, HETRICK, CLABORN AND SHERER

FEBRUARY 16, 2005

JOINT SPONSORS: SENATORS RHOADS AND MCGINNESS

Referred to Committee on Elections, Procedures, Ethics,
and Constitutional Amendments

SUMMARY—Revises provisions relating to ethics in government.
(BDR 23-1079)

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; authorizing the Commission on Ethics to use legal counsel other than the Commission Counsel under certain circumstances; exempting a person elected as a supervisor of a conservation district from the requirement of filing a statement of financial disclosure with the Secretary of State; revising the provisions relating to the circumstances under which a public officer or employee has not committed a willful violation of certain provisions of the Nevada Ethics in Government Law; 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 281.4645 is hereby amended to read as
2 follows:

3 281.4645 1. The Commission Counsel is the legal adviser to
4 the Commission. For each opinion of the Commission, the
5 Commission Counsel shall prepare, at the direction of the
6 Commission, the appropriate findings of fact and conclusions as to



1 relevant standards and the propriety of particular conduct within the
2 time set forth in subsection 4 of NRS 281.511. The Commission
3 Counsel shall not issue written opinions concerning the applicability
4 of the statutory ethical standards to a given set of facts and
5 circumstances except as directed by the Commission.

6 2. The Commission may rely upon the legal advice of the
7 Commission Counsel in conducting its daily operations.

8 3. If the Commission Counsel is prohibited from acting on a
9 particular matter ~~[pursuant to NRS 281.501, he shall disclose the~~
10 ~~reasons therefor to the Chairman and]~~ *or is otherwise unable to act*
11 *on a particular matter, the Commission may:*

12 (a) *Request that* the Attorney General ~~[shall]~~ appoint a deputy
13 to act in the place of the Commission Counsel ~~[for that particular~~
14 ~~matter.]; or~~

15 (b) *Employ outside legal counsel.*

16 **Sec. 2.** NRS 281.551 is hereby amended to read as follows:

17 281.551 1. In addition to any other penalty provided by law,
18 the Commission may impose on a public officer or employee or
19 former public officer or employee civil penalties:

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

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

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

26 2. In addition to other penalties provided by law, the
27 Commission may impose a civil penalty not to exceed \$5,000 and
28 assess an amount equal to the amount of attorney's fees and costs
29 actually and reasonably incurred by the person about whom an
30 opinion was requested pursuant to NRS 281.511, against a person
31 who prevents, interferes with or attempts to prevent or interfere with
32 the discovery or investigation of a violation of this chapter.

33 3. If the Commission finds that a violation of a provision of
34 this chapter by a public officer or employee or former public officer
35 or employee has resulted in the realization by another person of a
36 financial benefit, the Commission may, in addition to other penalties
37 provided by law, require the current or former public officer or
38 employee to pay a civil penalty of not more than twice the amount
39 so realized.

40 4. In addition to any other penalty provided by law, by an
41 affirmative vote of two-thirds of the Commission, the Commission
42 may impose on any person who violates any provision of NRS
43 294A.345 or 294A.346 a civil penalty not to exceed \$5,000. The
44 Commission shall not impose a civil penalty for a violation of NRS



1 294A.345 unless the Commission has made the specific findings
2 required pursuant to subsection 7 of NRS 281.477.

3 5. If the Commission finds that:

4 (a) A willful violation of this chapter has been committed by a
5 public officer removable from office by impeachment only, the
6 Commission shall file a report with the appropriate person
7 responsible for commencing impeachment proceedings as to its
8 finding. The report must contain a statement of the facts alleged to
9 constitute the violation.

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

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

18 6. An action taken by a public officer or employee or former
19 public officer or employee relating to NRS 281.481, 281.491,
20 281.501 or 281.505 is not a willful violation of a provision of those
21 sections if the public officer or employee ~~is~~:

22 ~~—(a) Relied~~ *establishes by sufficient evidence that he satisfied*
23 *all of the following requirements:*

24 (a) *He relied* in good faith upon the advice of the legal counsel
25 retained by the public body which the public officer represents or by
26 the employer of the public employee or upon the manual published
27 by the Commission pursuant to NRS 281.471;

28 (b) ~~Was~~ *He was* unable, through no fault of his own, to obtain
29 an opinion from the Commission before the action was taken; and

30 (c) ~~Took~~ *He took* action that was not contrary to a prior
31 published opinion issued by the Commission.

32 7. In addition to other penalties provided by law, a public
33 employee who willfully violates a provision of NRS 281.481,
34 281.491, 281.501 or 281.505 is subject to disciplinary proceedings
35 by his employer and must be referred for action in accordance to the
36 applicable provisions governing his employment.

37 8. NRS 281.481 to 281.541, inclusive, do not abrogate or
38 decrease the effect of the provisions of the Nevada Revised Statutes
39 which define crimes or prescribe punishments with respect to the
40 conduct of public officers or employees. If the Commission finds
41 that a public officer or employee has committed a willful violation
42 of this chapter which it believes may also constitute a criminal
43 offense, the Commission shall refer the matter to the Attorney
44 General or the district attorney, as appropriate, for a determination
45 of whether a crime has been committed that warrants prosecution.



1 9. The imposition of a civil penalty pursuant to subsections 1 to
2 4, inclusive, is a final decision for the purposes of judicial review.

3 10. A finding by the Commission that a public officer or
4 employee has violated any provision of this chapter must be
5 supported by a preponderance of the evidence unless a greater
6 burden is otherwise prescribed by law.

7 **Sec. 3.** NRS 281.561 is hereby amended to read as follows:

8 281.561 1. Each candidate for public office who will be
9 entitled to receive annual compensation of \$6,000 or more for
10 serving in the office that he is seeking and , *except as otherwise*
11 *provided in subsection 2*, each public officer who was elected to the
12 office for which he is serving shall file with the Secretary of State a
13 statement of financial disclosure, as follows:

14 (a) A candidate for nomination, election or reelection to public
15 office shall file a statement of financial disclosure no later than the
16 10th day after the last day to qualify as a candidate for the office;
17 and

18 (b) Each public officer shall file a statement of financial
19 disclosure on or before January 15 of each year of the term,
20 including the year the term expires.

21 2. *A person elected pursuant to NRS 548.285 to the office of*
22 *supervisor of a conservation district is not required to file a*
23 *statement of financial disclosure relative to that office pursuant to*
24 *subsection 1.*

25 3. A candidate for judicial office or a judicial officer shall file a
26 statement of financial disclosure pursuant to the requirements of
27 Canon 4I of the Nevada Code of Judicial Conduct. Such a statement
28 of financial disclosure must include, without limitation, all
29 information required to be included in a statement of financial
30 disclosure pursuant to NRS 281.571.

31 ~~3-~~ 4. A statement of financial disclosure shall be deemed to
32 be filed with the Secretary of State:

33 (a) On the date that it was mailed if it was sent by certified mail;
34 or

35 (b) On the date that it was received by the Secretary of State if
36 the statement was sent by regular mail, transmitted by facsimile
37 machine or electronic means, or delivered personally.

38 ~~4-~~ 5. The statement of financial disclosure filed pursuant to
39 this section must be filed on the form prescribed by the Commission
40 pursuant to NRS 281.471.

41 ~~5-~~ 6. The Secretary of State shall prescribe, by regulation,
42 procedures for the submission of statements of financial disclosure
43 filed pursuant to this section, maintain files of such statements and
44 make the statements available for public inspection.



1 **Sec. 4.** Any civil penalty or fine pending on the effective date
2 of this act which was imposed pursuant to NRS 281.581 or any
3 other provision of law against an elected supervisor of a
4 conservation district for failing to file a statement of financial
5 disclosure pursuant to NRS 281.561 is hereby declared void and
6 must not be collected.

7 **Sec. 5.** This act becomes effective upon passage and approval
8 and the amendatory provisions of subsection 2 of section 3 of this
9 act apply retroactively to January 1, 2004.

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