

**Amendment No. CA18**

First Conference Committee Amendment to Assembly Bill No. 64 Second Reprint (BDR 23-1079)

**Proposed by:** First Conference Committee

**Amendment Box:**

**Resolves Conflicts with:** N/A

**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Amend the bill as a whole by renumbering sections 2 through 4 as sections 3 through 5 and adding a new section designated sec. 2, following section 1, to read as follows:

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

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

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

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

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

2. In addition to other penalties provided by law, the Commission may impose a civil penalty not to exceed \$5,000 and assess an amount equal to the amount of attorney’s fees and costs actually and reasonably incurred by the person about whom an opinion was requested pursuant to NRS

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JCB/KMG

Date: 6/5/2005

A.B. No. 64—Revises provisions relating to ethics in government.



281.511, against a person who prevents, interferes with or attempts to prevent or interfere with the discovery or investigation of a violation of this chapter.

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

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

5. If the Commission finds that:

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

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

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

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

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

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

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

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

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

8. NRS 281.481 to 281.541, inclusive, do not abrogate or decrease the effect of the provisions of the Nevada Revised Statutes which define crimes or prescribe punishments with respect to the conduct of public officers or employees. If the Commission finds that a public officer or employee has committed a willful violation of this chapter which it believes may also constitute a criminal

offense, the Commission shall refer the matter to the Attorney General or the district attorney, as appropriate, for a determination of whether a crime has been committed that warrants prosecution.

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

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

Amend sec. 4, page 3, by deleting lines 40 through 42 and inserting:

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

Amend the title of the bill, seventh line, after “State;” by inserting:

“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;”.

**If this amendment is adopted, the Legislative**

**Counsel's Digest will be deleted.**