

ASSEMBLY BILL NO. 60—COMMITTEE ON  
LEGISLATIVE OPERATIONS AND ELECTIONS

(ON BEHALF OF THE COMMISSION ON ETHICS)

PREFILED DECEMBER 20, 2014

Referred to Committee on Legislative Operations and Elections

SUMMARY—Revises provisions relating to ethics in government.  
(BDR 23-309)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
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 ethics in government; revising provisions relating to ethics in government; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

1 Under the Nevada Ethics in Government Law, the Commission on Ethics is  
2 required to determine whether it has jurisdiction over a request for an opinion.  
3 (NRS 281A.280; NAC 281A.360, 281A.405) The Ethics Law also imposes time  
4 limits on the Commission to carry out certain duties. With respect to a request for  
5 an opinion regarding the conduct of a public officer or employee which is made by  
6 a third party and is more commonly known as a third-party request, the Executive  
7 Director of the Commission is required to complete an investigation and  
8 make a recommendation regarding the third-party request within 70 days after  
9 receipt of the request, unless the public officer or employee waives the time limit.  
10 (NRS 281A.440)

11 To accommodate the time required for the Commission to determine whether it  
12 has jurisdiction concerning a third-party request, **section 3** of this bill provides that  
13 within 45 days after receiving the request, the Commission shall determine whether  
14 it has jurisdiction concerning the request, unless the public officer or employee  
15 waives the time limit. If the Commission determines that it has jurisdiction  
16 concerning the request, the Executive Director must complete the investigation and  
17 make a recommendation regarding the request within 70 days after the  
18 jurisdictional determination, unless the public officer or employee waives the time  
19 limit.

20 Under the Ethics Law, the investigative file relating to a request for an opinion,  
21 which includes any information obtained by the Commission during the course of  
22 an investigation related to the request, is confidential. (NRS 281A.440) **Section 3**  
23 clarifies that the investigative file includes any information provided to or obtained



24 by an investigatory panel consisting of Commission members or by the staff of the  
25 Commission.

26 The Ethics Law further provides that all information that is not included in the  
27 investigative file relating to a request is confidential for a limited time until an  
28 investigatory panel determines whether there is just and sufficient cause to render  
29 an opinion in the matter or until the public officer or employee authorizes  
30 disclosure, whichever occurs first. (NRS 281A.440) **Section 3** authorizes additional  
31 confidentiality which allows a person who makes a third-party request to ask for the  
32 person's name to be kept confidential under certain limited circumstances. In  
33 particular, **section 3** states that the Commission: (1) shall keep the person's name  
34 confidential if the person is a public officer or employee who works for the same  
35 public body, agency or employer as the public officer or employee who is the  
36 subject of the request; and (2) may keep the person's name confidential if the  
37 person offers sufficient facts and circumstances showing a reasonable likelihood  
38 that disclosure of the person's name will subject the person or a member of the  
39 person's household to a bona fide threat of physical force or violence. However, if  
40 the Commission keeps the person's name confidential, the Commission may not  
41 render an opinion in the matter unless there is sufficient evidence without the  
42 person's testimony to consider the request. Additionally, if the Commission intends  
43 to present the person's testimony as evidence, the Commission must disclose the  
44 person's name within a reasonable time before the Commission's hearing on the  
45 matter.

46 Under the Ethics Law, the Commission is required to consider various  
47 aggravating and mitigating factors when determining whether a violation of the  
48 Ethics Law is a willful violation and, if so, the amount of any civil penalty to be  
49 imposed for such a willful violation of the Ethics Law. (NRS 281A.170, 281A.475)  
50 **Sections 1 and 4** of this bill clarify that the factors listed in the Ethics Law which  
51 must be considered by the Commission are not exclusive or exhaustive, and the  
52 Commission may consider other factors in the disposition of the matter if they bear  
53 a reasonable relationship to the determination of the severity of the violation.

54 The Ethics Law includes a "safe harbor" provision, whereby any act or failure  
55 to act by a current or former public officer or employee is deemed to not be a  
56 willful violation if the public officer or employee establishes by sufficient evidence  
57 that: (1) the public officer or employee relied in good faith upon the advice of the  
58 legal counsel retained by his or her public body, agency or employer; and (2) the  
59 act or failure to act by the public officer or employee was not contrary to a prior  
60 published opinion issued by the Commission. (NRS 281A.480) **Section 5** of this  
61 bill clarifies that to qualify for protection under the "safe harbor" provision, the  
62 advice of the legal counsel must have been: (1) provided to the public officer or  
63 employee before he or she acted or failed to act; and (2) based on a reasonable legal  
64 determination by the legal counsel under the circumstances when the advice was  
65 given that the act or failure to act would not be contrary to any prior published  
66 opinion issued by the Commission which was publicly available on the Internet  
67 website of the Commission.

68 With certain exceptions, the Ethics Law imposes a 1-year "cooling off" period  
69 on former public officers and employees during which they are prohibited from  
70 soliciting or accepting employment from a business or industry over which they  
71 had regulatory authority in some capacity. However, the Ethics Law authorizes a  
72 current or former public officer or employee to request an opinion from the  
73 Commission to obtain relief from the strict application of the prohibition. The  
74 Ethics Law also authorizes a current public officer or employee to request the  
75 Commission to render an opinion providing guidance regarding his or her past,  
76 present or future conduct as a public officer or employee, which is known as a first-  
77 party request for an opinion. Under the Ethics Law, a request for an opinion  
78 regarding the application of the "cooling-off" prohibition or a first-party request for



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79 an opinion, as well as any opinion rendered by the Commission in response to such  
80 a request and any motion, determination, evidence or record of a hearing relating to  
81 such a request, are confidential unless, in part, the public officer or employee  
82 discloses the request for an opinion, opinion or related motion, evidence or record.  
83 (NRS 281A.440, 281A.550) **Sections 3 and 6** of this bill allow a public officer or  
84 employee who made such a request to disclose the request for the opinion, the  
85 opinion and any motion, evidence or record related to the opinion to certain persons  
86 without waiving the confidentiality of the request for the opinion, opinion and any  
87 related motion, evidence or record.

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

1 **Section 1.** NRS 281A.170 is hereby amended to read as  
2 follows:

3 281A.170 “Willful violation” means a violation where ~~f~~  
4 ~~1. The~~ *the* public officer or employee:  
5 ~~(a)~~ 1. Acted intentionally and knowingly; or  
6 ~~(b)~~ 2. Was in a situation where this chapter imposed a duty to  
7 act and the public officer or employee intentionally and knowingly  
8 failed to act in the manner required by this chapter ~~f~~ *and*  
9 ~~2. The~~ ,  
10 *unless the* Commission determines, after applying the factors set  
11 forth in NRS 281A.475, that the public officer’s or employee’s act  
12 or failure to act *has not* resulted in a sanctionable violation of this  
13 chapter.

14 **Sec. 2.** (Deleted by amendment.)

15 **Sec. 3.** NRS 281A.440 is hereby amended to read as follows:  
16 281A.440 1. The Commission shall render an opinion  
17 interpreting the statutory ethical standards and apply the standards to  
18 a given set of facts and circumstances within 45 days after receiving  
19 a request, on a form prescribed by the Commission, from a public  
20 officer or employee who is seeking guidance on questions which  
21 directly relate to the propriety of the requester’s own past, present or  
22 future conduct as a public officer or employee, unless the public  
23 officer or employee waives the time limit. The public officer or  
24 employee may also request the Commission to hold a public hearing  
25 regarding the requested opinion. If a requested opinion relates to the  
26 propriety of the requester’s own present or future conduct, the  
27 opinion of the Commission is:

28 (a) Binding upon the requester as to the requester’s future  
29 conduct; and

30 (b) Final and subject to judicial review pursuant to NRS  
31 233B.130, except that a proceeding regarding this review must be  
32 held in closed court without admittance of persons other than those



1 necessary to the proceeding, unless this right to confidential  
2 proceedings is waived by the requester.

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

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

7 (b) Except as otherwise provided in this subsection, upon  
8 request from a person, if the requester submits:

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

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

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

19 ↪ The Commission shall not render an opinion interpreting the  
20 statutory ethical standards or apply those standards to a given set of  
21 facts and circumstances if the request is submitted by a person who  
22 is incarcerated in a correctional facility in this State.

23 3. *Within 45 days after receiving a request for an opinion*  
24 *pursuant to paragraph (a) or (b) of subsection 2, the Commission*  
25 *shall determine whether it has jurisdiction concerning the request,*  
26 *unless the public officer or employee who is the subject of the*  
27 *request waives this time limit. Upon ~~receipt of~~ a determination by*  
28 *the Commission that it has jurisdiction concerning a request for an*  
29 *opinion ~~by the Commission~~ pursuant to paragraph (a) or (b) of*  
30 *subsection 2, or upon the motion of the Commission initiating a*  
31 *request for an opinion pursuant to paragraph (c) of subsection 2,*  
32 *as applicable, the Executive Director shall investigate the facts and*  
33 *circumstances relating to the request to determine whether there is*  
34 *just and sufficient cause for the Commission to render an opinion in*  
35 *the matter. The Executive Director shall notify the public officer or*  
36 *employee who is the subject of the request and provide the public*  
37 *officer or employee an opportunity to submit to the Executive*  
38 *Director a response to the allegations against the public officer or*  
39 *employee within 30 days after the date on which the public officer*  
40 *or employee received the notice of the request. The purpose of the*  
41 *response is to provide the Executive Director with any information*  
42 *relevant to the request which the public officer or employee believes*  
43 *may assist the Executive Director and the investigatory panel in*  
44 *conducting the investigation. The public officer or employee is not*  
45 *required in the response or in any proceeding before the*



1 investigatory panel to assert, claim or raise any objection or defense,  
2 in law or fact, to the allegations against the public officer or  
3 employee and no objection or defense, in law or fact, is waived,  
4 abandoned or barred by the failure to assert, claim or raise it in the  
5 response or in any proceeding before the investigatory panel.

6 4. The Executive Director shall complete the investigation and  
7 present a written recommendation relating to just and sufficient  
8 cause, including, without limitation, the specific evidence or reasons  
9 that support the recommendation, to the investigatory panel within  
10 70 days after the ~~receipt of~~ *determination by the Commission that*  
11 *it has jurisdiction concerning the request or after* the motion of the  
12 Commission ~~for~~ *initiating* the request, *as applicable*, unless the  
13 public officer or employee waives this time limit.

14 5. Within 15 days after the Executive Director has provided the  
15 written recommendation in the matter to the investigatory panel  
16 pursuant to subsection 4, the investigatory panel shall conclude the  
17 investigation and make a final determination regarding whether  
18 there is just and sufficient cause for the Commission to render an  
19 opinion in the matter, unless the public officer or employee waives  
20 this time limit. The investigatory panel shall not determine that there  
21 is just and sufficient cause for the Commission to render an opinion  
22 in the matter unless the Executive Director has provided the public  
23 officer or employee an opportunity to respond to the allegations  
24 against the public officer or employee as required by subsection 3.  
25 The investigatory panel shall cause a record of its proceedings in  
26 each matter to be kept.

27 6. If the investigatory panel determines that there is just and  
28 sufficient cause for the Commission to render an opinion in the  
29 matter, the Commission shall hold a hearing and render an opinion  
30 in the matter within 60 days after the determination of just and  
31 sufficient cause by the investigatory panel, unless the public officer  
32 or employee waives this time limit.

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

39 (a) Acts in contravention of the opinion, in which case the  
40 Commission may disclose the request for the opinion, the contents  
41 of the opinion and any motion, evidence or record of a hearing  
42 related thereto;

43 (b) Discloses the request for the opinion, the contents of the  
44 opinion, or any motion, evidence or record of a hearing related  
45 thereto ~~H~~ *in any manner except to:*



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1           ***(1) The public body, agency or employer of the public***  
2 ***officer or employee; or***

3           ***(2) A person to whom the Commission authorizes the***  
4 ***current or former public officer or employee to make such a***  
5 ***disclosure; or***

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

9           8. Except as otherwise provided in ~~subsection 9,~~ ***subsections***  
10 ***9 and 10,*** all information, communications, records, documents or  
11 other material in the possession of the Commission or its staff that is  
12 related to a request for an opinion regarding a public officer or  
13 employee submitted to or initiated by the Commission pursuant to  
14 subsection 2, including, without limitation, the record of the  
15 proceedings of the investigatory panel made pursuant to subsection  
16 5, are confidential and not public records pursuant to chapter 239 of  
17 NRS until:

18           (a) The investigatory panel determines whether there is just and  
19 sufficient cause to render an opinion in the matter and serves written  
20 notice of such a determination on the public officer or employee  
21 who is the subject of the request for an opinion submitted or  
22 initiated pursuant to subsection 2; or

23           (b) The public officer or employee who is the subject of a  
24 request for an opinion submitted or initiated pursuant to subsection  
25 2 authorizes the Commission in writing to make its information,  
26 communications, records, documents or other material which are  
27 related to the request publicly available,  
28       ↳ whichever occurs first.

29           9. ***Except as otherwise provided in this subsection, if a person***  
30 ***who submits a request for an opinion pursuant to paragraph (b) of***  
31 ***subsection 2 asks for the person's name to be kept confidential,***  
32 ***the Commission:***

33           ***(a) Shall keep the person's name confidential if the person is a***  
34 ***public officer or employee who works for the same public body,***  
35 ***agency or employer as the public officer or employee who is the***  
36 ***subject of the request.***

37           ***(b) May keep the person's name confidential if the person***  
38 ***offers sufficient facts and circumstances showing a reasonable***  
39 ***likelihood that disclosure of the person's name will subject the***  
40 ***person or a member of the person's household to a bona fide***  
41 ***threat of physical force or violence.***

42       ↳ ***If the Commission keeps the person's name confidential, the***  
43 ***Commission shall not render an opinion in the matter unless there***  
44 ***is sufficient evidence without the person's testimony to consider***  
45 ***the propriety of the conduct of the public officer or employee who***



1 *is the subject of the request. If the Commission intends to present*  
2 *the person's testimony for consideration as evidence in rendering*  
3 *an opinion in the matter, the Commission shall disclose the*  
4 *person's name within a reasonable time before the Commission's*  
5 *hearing on the matter.*

6 ~~10.~~ Except as otherwise provided in this ~~{section,}~~ subsection,  
7 the investigative file ~~{of the Commission}~~ related to a request for  
8 *an opinion regarding a public officer or employee, as described in*  
9 *subsection 17*, is confidential. At any time after being served with  
10 written notice of the determination of the investigatory panel  
11 regarding the existence of just and sufficient cause for the  
12 Commission to render an opinion in the matter, the public officer or  
13 employee who is the subject of the request for an opinion may  
14 submit a written discovery request to the Commission for a copy of  
15 any portion of the investigative file that the Commission intends to  
16 present for consideration as evidence in rendering an opinion in the  
17 matter and a list of proposed witnesses. Any portion of the  
18 investigative file which the Commission presents as evidence in  
19 rendering an opinion in the matter becomes a public record as  
20 provided in chapter 239 of NRS.

21 ~~{10.}~~ **11.** Whenever the Commission holds a hearing pursuant  
22 to this section, the Commission shall:

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

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

26 (c) Allow the person to hear the evidence presented to the  
27 Commission and to respond and present evidence on the person's  
28 own behalf.

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

31 ~~{11.}~~ **12.** If a person who is not a party to a hearing before the  
32 Commission, including, without limitation, a person who has  
33 requested an opinion pursuant to paragraph (a) or (b) of subsection  
34 2, wishes to ask a question of a witness at the hearing, the person  
35 must submit the question to the Executive Director in writing. The  
36 Executive Director may submit the question to the Commission if  
37 the Executive Director deems the question relevant and appropriate.  
38 This subsection does not require the Commission to ask any  
39 question submitted by a person who is not a party to the proceeding.

40 ~~{12.}~~ **13.** If a person who requests an opinion pursuant to  
41 subsection 1 or 2 does not:

42 (a) Submit all necessary information to the Commission; and

43 (b) Declare by oath or affirmation that the person will testify  
44 truthfully,

45 ➤ the Commission may decline to render an opinion.



1 ~~H3~~ 14. For good cause shown, the Commission may take  
2 testimony from a person by telephone or video conference.

3 ~~H4~~ 15. For the purposes of NRS 41.032, the members of the  
4 Commission and its employees shall be deemed to be exercising or  
5 performing a discretionary function or duty when taking an action  
6 related to the rendering of an opinion pursuant to this section.

7 ~~H5~~ 16. A meeting or hearing that the Commission or the  
8 investigatory panel holds to receive information or evidence  
9 concerning the propriety of the conduct of a public officer or  
10 employee pursuant to this section and the deliberations of the  
11 Commission and the investigatory panel on such information or  
12 evidence are not subject to the provisions of chapter 241 of NRS.

13 ~~H6~~ 17. For the purposes of this section, the investigative file  
14 ~~of the Commission~~ which relates to a request for an opinion  
15 regarding a public officer or employee includes, without limitation,  
16 any information *provided to or* obtained by the Commission , *its*  
17 *staff or an investigatory panel* through any form of communication  
18 during the course of an investigation and any records, documents or  
19 other material created or maintained during the course of an  
20 investigation which relate to the public officer or employee who is  
21 the subject of the request for an opinion, *including, without*  
22 *limitation, a transcript*, regardless of whether such information,  
23 records, documents or other material are obtained by a subpoena.

24 **Sec. 4.** NRS 281A.475 is hereby amended to read as follows:

25 281A.475 1. In determining whether a violation of this  
26 chapter is a willful violation and, if so, the amount of any civil  
27 penalty to be imposed on a public officer or employee or former  
28 public officer or employee pursuant to NRS 281A.480, the  
29 Commission shall consider ~~H~~ , *without limitation:*

30 (a) The seriousness of the violation, including, without  
31 limitation, the nature, circumstances, extent and gravity of the  
32 violation;

33 (b) The number and history of previous warnings issued to or  
34 violations of the provisions of this chapter by the public officer or  
35 employee;

36 (c) The cost to the Commission to conduct the investigation and  
37 any hearing relating to the violation;

38 (d) Any mitigating factors, including, without limitation, any  
39 self-reporting, prompt correction of the violation, any attempts to  
40 rectify the violation before any complaint is filed and any  
41 cooperation by the public officer or employee in resolving the  
42 complaint;

43 (e) Any restitution or reimbursement paid to parties affected by  
44 the violation;





1 (f) The extent of any financial gain resulting from the violation;  
2 and

3 (g) Any other matter justice may require.

4 2. *The factors set forth in this section are not exclusive or*  
5 *exhaustive, and the Commission may consider other factors in the*  
6 *disposition of the matter if they bear a reasonable relationship to*  
7 *the Commission's determination of the severity of the violation.*

8 3. In applying the factors set forth in this section, the  
9 Commission shall treat comparable situations in a comparable  
10 manner and shall ensure that the disposition of the matter bears a  
11 reasonable relationship to the severity of the violation.

12 **Sec. 5.** NRS 281A.480 is hereby amended to read as follows:

13 281A.480 1. In addition to any other penalties provided by  
14 law and in accordance with the provisions of NRS 281A.475, the  
15 Commission may impose on a public officer or employee or former  
16 public officer or employee civil penalties:

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

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

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

23 2. In addition to any other penalties provided by law, the  
24 Commission may, upon its own motion or upon the motion of the  
25 person about whom an opinion was requested pursuant to NRS  
26 281A.440, impose a civil penalty not to exceed \$5,000 and assess an  
27 amount equal to the amount of attorney's fees and costs actually and  
28 reasonably incurred by the person about whom an opinion was  
29 requested pursuant to NRS 281A.440 against a person who  
30 prevents, interferes with or attempts to prevent or interfere with the  
31 discovery or investigation of a violation of this chapter.

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

39 4. In addition to any other penalties provided by law, if a  
40 proceeding results in an opinion that:

41 (a) One or more willful violations of this chapter have been  
42 committed by a State Legislator removable from office only through  
43 expulsion by the State Legislator's own House pursuant to Section 6  
44 of Article 4 of the Nevada Constitution, the Commission shall:



1 (1) If the State Legislator is a member of the Senate, submit  
2 the opinion to the Majority Leader of the Senate or, if the Majority  
3 Leader of the Senate is the subject of the opinion or the person who  
4 requested the opinion, to the President Pro Tempore of the Senate;  
5 or

6 (2) If the State Legislator is a member of the Assembly,  
7 submit the opinion to the Speaker of the Assembly or, if the Speaker  
8 of the Assembly is the subject of the opinion or the person who  
9 requested the opinion, to the Speaker Pro Tempore of the Assembly.

10 (b) One or more willful violations of this chapter have been  
11 committed by a state officer removable from office only through  
12 impeachment pursuant to Article 7 of the Nevada Constitution, the  
13 Commission shall submit the opinion to the Speaker of the  
14 Assembly and the Majority Leader of the Senate or, if the Speaker  
15 of the Assembly or the Majority Leader of the Senate is the person  
16 who requested the opinion, to the Speaker Pro Tempore of the  
17 Assembly or the President Pro Tempore of the Senate, as  
18 appropriate.

19 (c) One or more willful violations of this chapter have been  
20 committed by a public officer other than a public officer described  
21 in paragraphs (a) and (b), the willful violations shall be deemed to  
22 be malfeasance in office for the purposes of NRS 283.440 and the  
23 Commission:

24 (1) May file a complaint in the appropriate court for removal  
25 of the public officer pursuant to NRS 283.440 when the public  
26 officer is found in the opinion to have committed fewer than three  
27 willful violations of this chapter.

28 (2) Shall file a complaint in the appropriate court for removal  
29 of the public officer pursuant to NRS 283.440 when the public  
30 officer is found in the opinion to have committed three or more  
31 willful violations of this chapter.

32 ➤ This paragraph grants an exclusive right to the Commission, and  
33 no other person may file a complaint against the public officer  
34 pursuant to NRS 283.440 based on any violation found in the  
35 opinion.

36 5. Notwithstanding any other provision of this chapter, any act  
37 or failure to act by a public officer or employee or former public  
38 officer or employee relating to this chapter is not a willful violation  
39 of this chapter if the public officer or employee establishes by  
40 sufficient evidence that:

41 (a) The public officer or employee relied in good faith upon the  
42 advice of the legal counsel retained by his or her public body,  
43 agency or employer; and

44 (b) The *advice of the legal counsel was:*



1           (1) *Provided to the public officer or employee before the*  
2 *public officer or employee acted or failed to act; and*

3           (2) *Based on a reasonable legal determination by the legal*  
4 *counsel under the circumstances when the advice was given that*  
5 *the act or failure to act by the public officer or employee ~~was~~*  
6 *would not be contrary to ~~the~~ any prior published opinion issued by*  
7 *the Commission ~~and~~ which was publicly available on the Internet*  
8 *website of the Commission.*

9           6. In addition to any other penalties provided by law, a public  
10 employee who commits a willful violation of this chapter is subject  
11 to disciplinary proceedings by the employer of the public employee  
12 and must be referred for action in accordance to the applicable  
13 provisions governing the employment of the public employee.

14           7. The provisions of this chapter do not abrogate or decrease  
15 the effect of the provisions of the Nevada Revised Statutes which  
16 define crimes or prescribe punishments with respect to the conduct  
17 of public officers or employees. If the Commission finds that a  
18 public officer or employee has committed a willful violation of this  
19 chapter which it believes may also constitute a criminal offense, the  
20 Commission shall refer the matter to the Attorney General or the  
21 district attorney, as appropriate, for a determination of whether a  
22 crime has been committed that warrants prosecution.

23           8. The imposition of a civil penalty pursuant to subsection 1, 2  
24 or 3 is a final decision for the purposes of judicial review pursuant  
25 to NRS 233B.130.

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

30           **Sec. 6.** NRS 281A.550 is hereby amended to read as follows:

31           281A.550 1. A former member of the Public Utilities  
32 Commission of Nevada shall not:

33           (a) Be employed by a public utility or parent organization or  
34 subsidiary of a public utility; or

35           (b) Appear before the Public Utilities Commission of Nevada to  
36 testify on behalf of a public utility or parent organization or  
37 subsidiary of a public utility,

38           ↳ for 1 year after the termination of the member's service on the  
39 Public Utilities Commission of Nevada.

40           2. A former member of the State Gaming Control Board or the  
41 Nevada Gaming Commission shall not:

42           (a) Appear before the State Gaming Control Board or the  
43 Nevada Gaming Commission on behalf of a person who holds a  
44 license issued pursuant to chapter 463 or 464 of NRS or who is



1 required to register with the Nevada Gaming Commission pursuant  
2 to chapter 463 of NRS; or

3 (b) Be employed by such a person,

4 ↪ for 1 year after the termination of the member's service on the  
5 State Gaming Control Board or the Nevada Gaming Commission.

6 3. In addition to the prohibitions set forth in subsections 1 and  
7 2, and except as otherwise provided in subsections 4 and 6, a former  
8 public officer or employee of a board, commission, department,  
9 division or other agency of the Executive Department of State  
10 Government, except a clerical employee, shall not solicit or accept  
11 employment from a business or industry whose activities are  
12 governed by regulations adopted by the board, commission,  
13 department, division or other agency for 1 year after the termination  
14 of the former public officer's or employee's service or period of  
15 employment if:

16 (a) The former public officer's or employee's principal duties  
17 included the formulation of policy contained in the regulations  
18 governing the business or industry;

19 (b) During the immediately preceding year, the former public  
20 officer or employee directly performed activities, or controlled or  
21 influenced an audit, decision, investigation or other action, which  
22 significantly affected the business or industry which might, but for  
23 this section, employ the former public officer or employee; or

24 (c) As a result of the former public officer's or employee's  
25 governmental service or employment, the former public officer or  
26 employee possesses knowledge of the trade secrets of a direct  
27 business competitor.

28 4. The provisions of subsection 3 do not apply to a former  
29 public officer who was a member of a board, commission or similar  
30 body of the State if:

31 (a) The former public officer is engaged in the profession,  
32 occupation or business regulated by the board, commission or  
33 similar body;

34 (b) The former public officer holds a license issued by the  
35 board, commission or similar body; and

36 (c) Holding a license issued by the board, commission or similar  
37 body is a requirement for membership on the board, commission or  
38 similar body.

39 5. Except as otherwise provided in subsection 6, a former  
40 public officer or employee of the State or a political subdivision,  
41 except a clerical employee, shall not solicit or accept employment  
42 from a person to whom a contract for supplies, materials, equipment  
43 or services was awarded by the State or political subdivision, as  
44 applicable, for 1 year after the termination of the officer's or  
45 employee's service or period of employment, if:



1 (a) The amount of the contract exceeded \$25,000;  
2 (b) The contract was awarded within the 12-month period  
3 immediately preceding the termination of the officer's or  
4 employee's service or period of employment; and

5 (c) The position held by the former public officer or employee at  
6 the time the contract was awarded allowed the former public officer  
7 or employee to affect or influence the awarding of the contract.

8 6. A current or former public officer or employee may request  
9 that the Commission apply the relevant facts in that person's case to  
10 the provisions of subsection 3 or 5, as applicable, and determine  
11 whether relief from the strict application of those provisions is  
12 proper. If the Commission determines that relief from the strict  
13 application of the provisions of subsection 3 or 5, as applicable, is  
14 not contrary to:

15 (a) The best interests of the public;  
16 (b) The continued ethical integrity of the State Government or  
17 political subdivision, as applicable; and

18 (c) The provisions of this chapter,  
19 → it may issue an opinion to that effect and grant such relief. The  
20 opinion of the Commission in such a case is final and subject to  
21 judicial review pursuant to NRS 233B.130, except that a proceeding  
22 regarding this review must be held in closed court without  
23 admittance of persons other than those necessary to the proceeding,  
24 unless this right to confidential proceedings is waived by the current  
25 or former public officer or employee.

26 7. Each request for an opinion that a current or former public  
27 officer or employee submits to the Commission pursuant to  
28 subsection 6, each opinion rendered by the Commission in response  
29 to such a request and any motion, determination, evidence or record  
30 of a hearing relating to such a request are confidential unless the  
31 current or former public officer or employee who requested the  
32 opinion:

33 (a) Acts in contravention of the opinion, in which case the  
34 Commission may disclose the request for the opinion, the contents  
35 of the opinion and any motion, evidence or record of a hearing  
36 related thereto;

37 (b) Discloses the request for the opinion, the contents of the  
38 opinion or any motion, evidence or record of a hearing related  
39 thereto **H** *in any manner except to:*

40 *(1) The public body, agency or employer of the public*  
41 *officer or employee or a prospective employer of the public officer*  
42 *or employee; or*

43 *(2) Any person to whom the Commission authorizes the*  
44 *current or former public officer or employee to make such a*  
45 *disclosure; 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 8. A meeting or hearing that the Commission or an  
5 investigatory panel holds to receive information or evidence  
6 concerning the propriety of the conduct of a current or former public  
7 officer or employee pursuant to this section and the deliberations of  
8 the Commission and the investigatory panel on such information or  
9 evidence are not subject to the provisions of chapter 241 of NRS.

10 9. As used in this section, "regulation" has the meaning  
11 ascribed to it in NRS 233B.038 and also includes regulations  
12 adopted by a board, commission, department, division or other  
13 agency of the Executive Department of State Government that is  
14 exempted from the requirements of chapter 233B of NRS.

15 **Sec. 7.** This act becomes effective upon passage and approval.

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\* A B 6 0 R 1 \*



