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Panel isn't backing bid to change ethics laws

Commission wants to keep 'willful' in the legal standard

By Molly Ball 2/10/05
LAS VEGAS SUN

The state Ethics Commission will not back substantive changes to ethics laws in the current legislative session, according to the commission's discussion at Wednesday's meeting.

Board members didn't agree on one commissioner's proposal to strengthen Nevada's ethics statutes by removing the word "willful."

The commission will request legislative approval of a bill clarifying or amending some ethics provisions, but those changes, which include adopting a statute of limitations and changing a filing deadline, are largely technical.

Las Vegas Commissioner William Flangas, the senior member with five years on the board, announced the language change last month. At Wednesday's meeting he repeated his contention that ethics laws must be bolstered to restore people's faith in them.

"The abuse of the public trust has reached its limit," he said.

Flangas and other critics call the "willful" element of the law a loophole. Officials accused of wrongdoing can use it to argue that while they may have violated ethics statutes, they didn't mean to.

Flangas did not point to specific cases, but "willful" was in the spotlight most recently last year, when Las Vegas Mayor Oscar Goodman was found guilty of an ethics violation for using his position to help his son's business. Because the commission couldn't agree on whether or not the violation was willful, Goodman was

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Ethics
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"The abuse of the public trust has reached its limit."

William Flangas
ETHICS COMMISSIONER

not fined.

But Commissioner George Keele, of Minden, said he was concerned that removing the controversial term would pave the way for frivolous complaints and leave the law too vague to pass judicial muster.

"The minute we approve the removal of the willfulness concept we will have more complaints against more public officials than we have ever had since the beginning of civilization," Keele said.

Without the distinction of whether or not an official meant to violate the law, Keele said, "it's going to be anybody's guess" what constitutes an appearance of impropriety, which the law forbids, or a nominal amount of money, for which the law makes an exception.

Well-meaning officials could too easily be charged with violations, Keele said. "You take away the willfulness and, bam, all of a sudden they're in the goo," he said.

Commission Chairman Rick

lated bills, including the commission's technical one, two propose removing "willful" — one from Clark County, based on a recommendation by its Ethics Task Force, and one from Assemblywoman Chris Gammichiani, D-Las Vegas.

Other ethics bills are being proposed by Assembly Speaker Richard Perkins, D-Henderson; Senate Minority Leader Dina Titus, D-Las Vegas; Sen. Steven Horsford, D-North Las Vegas; the Assembly's ethics committee; and the Attorney General.

Craig Walton, an emeritus professor of ethics at UNLV, said he thought "willful" must go and decried the commissioners' objections as "double speak."

If the term were deleted, the commission would still have discretion to decide if cases were frivolous, he said.

"There have been seven or eight cases in the last 10 years where very big scandals occurred and there was no doubt the people did it — in some cases they didn't even claim they didn't do it — but they got off because of the 'willful' loophole," he said.

The problem, he said, is that members of the commission "see themselves not as the peo-

Hsu, of Reno, agreed, posing scenarios wherein he said those with good intentions could be snared, such as a county worker who purchased a discount airline ticket online using a work computer.

"The willful standard helps us to focus on the more serious cases that come before us," Hsu said.

Reno commissioner James Kosinski didn't express an opinion on the "willful" issue except to say that the discussion was pointless.

"It wouldn't have a chance in the world of getting past the Legislature," he said.

But the Legislature this session faces several ethics proposals and widespread public pressure to act on the issue, according to legislators.

Of at least eight ethics-r-

ple's voice, but as elected officials' protector."

Also at Wednesday's ethics meeting:

● Gov. Kenny Guinn supports the commission's request to increase its funding almost by half. Executive Director Stacy Jennings told the panel. The 44 percent increase, to about \$600,000 per year, would go to permanent funding for an office in Las Vegas and two new full-time positions, a legal research assistant and a Las Vegas-based investigator.

● Merle Berman of Las Vegas has resigned from the commission to run for Secretary of State, Hsu told the board. Berman, a former state Assemblywoman, announced Monday that she would seek the Republican nomination to replace Dean Heller in 2006. Based on the law, which defines quotas for the commission's makeup, Berman's replacement must be appointed by the Legislature, must be a former public officer and cannot be a Democrat. Berman was appointed in 2002 to a term that expires this September.

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Ethics panel is weak

● **AT ISSUE:** An ethics commissioner supports the removal of a loophole that weakens enforcement of state ethics laws. Two bills before the Legislature also support removing the loophole. The Ethics Commission as a whole, however, is opposed to removing it.

● **OUR TAKE:** This is the sign of a weak Ethics Commission. Stronger members should be appointed.

There is a push to remove a long-standing loophole in Nevada's ethics laws, but it is supported by only one of the eight members of the state Ethics Commission. The loophole is one word — willful. If a public official is found to have violated an ethics law, there is no real penalty unless the commission decides the violation was "willful."

This loophole plays into the hands of commissioners who are afraid to take a firm stand on ethics. It also gives alleged violators a built-in defense. They demand that commissioners follow the law and judge them not solely on what they did, but also on what was in their heart at the time they did it. In most cases, as has been seen over the years, this tactic works. Last year, for example, the commission ruled that Las Vegas Mayor Oscar Goodman used his elected position to help his son's business and found him guilty of an ethics violation. But Goodman walked away unscathed when the commission bought his argument that he had no willful intent to break the law.

Ethics Commissioner Bill Flanagan wants the willful provision dropped. And there are two bills before the Legislature to drop the word, one submitted by Assemblywoman Chris Gianchigiani, D-Las Vegas, and the other by Clark County government. The Ethics Commission as a whole, however, wants the word to remain. Only a weak commission would take that stance. The willful loophole scares violators and timid commissioners, but it doesn't serve justice.

Ultimately, the only way to truly strengthen the Ethics Commission is for the governor and the Legislature to appoint strong members who will jump at the chance to add teeth to their enforcement authority.

LAS VEGAS SUN

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LEGISLATURE
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1/31/05

State ethics issues loom

Clarifications: Bill responds to several recent controversies.

By Elizabeth White
ASSOCIATED PRESS

A Nevada state official impeached, an assemblyman fined, a Las Vegas councilwoman recalled.

In response to the many government controversies that Nevadans have witnessed the past year, legislators are working to tighten and clarify the rules that govern how elected and public officials can operate.

Assembly Speaker Richard Perkins, D-Henderson, is drafting a bill that would boot officials out of office if they violate state ethics laws three times, increase penalties for violations and make certain infractions criminal — instead of civil — offenses.

Much of Perkins' bill is a reaction to controversy surrounding state Controller Kathy Augustine, who was convicted by the Senate last year on a charge of illegally using state facilities and equipment to benefit her 2002 re-election campaign. She also admitted to violating state ethics laws and was fined \$15,000.

Ethics/Proposal doesn't deal with legal language that restricts panel's options

Two provisions in Perkins' bill provide better protection for whistle blowers and better guidelines for employees who work for officials running election campaigns.

"I have huge concerns that the public is losing confidence in its government," Perkins said. "And I want to address that."

See ETHICS on 5A

From 1A

Also on the mind of many legislators and advocacy groups is Las Vegas Councilwoman Janet Moncrief, the target of a successful recall movement spurred by criminal charges for allegedly filing false campaign finance reports. Lois Tarkamian, a former Clark County School Board member, unseated Moncrief.

And a state assemblyman, Chad Christensen, R-Las Vegas, was fined \$4,500 last April for 52 campaign finance law violations.

"There's just a whole host of things," Perkins said. "So we decided to put forth this bill draft."

Perkins' bill also touches on campaign contributions, open meetings laws and conflict-of-interest laws. Despite the wide scope of the bill, Perkins thinks it will have broad support, and he's willing to work with other legislators who have similar bills.

"At the end of the day, it'll be very difficult for any legislator to not be for ethics," he said. "This isn't about taking credit, it's about creating a more ethical government."

One thing he doesn't tackle, however, is language in state laws that has proved useful for some politicians.

For the state Commission on Ethics to fine someone for a violation, the panel must find the action was "willful." As defined, willful means "the public officer or employee knew or reasonably should have known that his conduct violated this chapter."

Last May, the commission found Las Vegas Mayor Oscar Goodman guilty of using his position to help his son's business but could not decide if the violation was willful. Goodman was not fined.

Ethics Commissioner Bill Flanagan said the commission is perceived as "toothless." He re-

posed earlier this month deleting "willful" from the law to make it easier to prove a violation.

"We have had significant experience in implementing the current law and now it's time to consider further revisions to gain improved public respect," Flanagan said.

What Flanagan could not say is whether he supports the proposal. Clark County has a similar recommendation.

A task force of citizens convened in 2003 to review ethics laws advised letting the definition of "willful" stand apart from the word "violation."

knew or reasonably should have known the consequences.

The county also wants the state Ethics Commission to have the ability to enforce local guidelines, said Dan Musgrove, county director of intergovernmental relations.

"We want the outside body to enforce," he said. "They're the body that's structured to do those

Such a move, said Jim Spinello, county assistant director of administrative services, would give officials "less wiggle room" in trying to prove a violation was carried out in ignorance.

"A lot of people say (public officials) should know," said Spinello, who holds a master's degree in ethics and policy studies. "The intent is to narrow and clarify the definition of willful."

Clark County's proposed definition, forwarded to the Legislature in a bill request, stipulates that a public official's action would be willful if the official was not coerced and

kinds of things."

Some, notably Flanagan, have questioned the power of the commission to enforce even on a state level.

Paul Brown, southern Nevada director of the Progressive Leadership Alliance of Nevada, said enforcement has been a longtime problem.

RELATED ISSUES

Among the other ethics-related bills expected this session:

■ Senate Minority Leader Dina Titus, D-Las Vegas, will propose a bill to tighten the definition of political activity and ensure judicial races are nonpartisan.

■ State Sen. Steven Horsford, D-North Las Vegas, will sponsor a bill that would prohibit employees from using government time to work on a campaign, another response to the Augustine impeachment case.

■ The Assembly Committee on Elections, Procedures and Ethics-Constitutional Amendments, led by Assemblywoman Ellen Koiwisto, D-Las Vegas, will propose an ethics-in-government bill.

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Replace ethics law's loopholes with teeth

Public officials bear little responsibility for actions under statute

By CRAIG WALTON 1/26/05
SPECIAL TO THE REVIEW-JOURNAL

In Monopoly, if you are lucky, you can draw a "Get Out of Jail Free" card.

In Nevada, you do not need to be lucky — a "Get Out of Jail Free" card is built into the Ethics in Government statute at Nevada Revised Statute 281.551 (6). It says your unethical action is not "willful," even though you are an adult and did it without being forced, if the attorney for your government office told you the thing was OK, or if you tried to get to the attorney and time was too short, or if there was no Nevada Ethics Commission opinion already written forbidding that action.

Because one of these three loopholes is almost always wide open, the Ethics Commission often finds an action morally sickening, a conflict of interest or cronyism which should not have happened, but which it has to excuse because it was not "willful" under this piece of bad law.

In late 2003, the second Clark County Ethics Task Force gave the Clark County Commission and the county manager its list of recommendations, one of which was to ask the state Legislature to delete this flawed section and simply substitute a new section, namely, the normal idea of responsibility: an action is willful if you knew, or should have known that it was wrong, and you were

Craig Walton is an emeritus professor of ethics and policy studies at the University of Nevada, Las Vegas and was a member of the Clark County Ethics Task Force in 1998 and 2003.



not coerced into doing it. For the 2005 Legislature, Clark County is asking that "willful"

NEVADA VIEWS

be redefined as meaning that the action was "not coerced and... [that the person] knew or reasonably should have known the consequences of the action."

Two weeks ago, at a meeting of the Nevada Ethics Commission, Commissioner William G. Flanagan asked his fellow commissioners to ask the Legislature to delete NRS 281.551 (6) and replace it with real teeth, namely the idea of responsibility which most of us use

in law or come before the Nevada Ethics Commission.

We need to change NRS 281.551 (6). It is poor policy. We need to put the responsibility for one's actions back on the elected or appointed public official. Yes, do seek an advisory opinion. But also ask a friend with a good conscience for her or his advice; ask how this action would look to an independent third party.

There should not be any "Get Out of Jail Free" cards.

The Nevada Ethics Commission often finds an action morally sickening, a conflict of interest or cronyism which should not have happened, but which it has to excuse because it was not "willful" under this piece of bad law.

Some attorneys object to this change. They say public officials will be afraid to ask them for advisory opinions. Attorneys need to give their best advice, and are professionally obligated to do so. But they are not elected and cannot shoulder the final moral responsibility. That belongs to the public official, legal advice or not.

Worse, some attorneys

advise, "Don't do it because it is black-letter law not to do it," or, "OK, do it because there is no black-letter law against doing it." The ethics law, for these attorneys, has some sharp definitions we must obey, and beyond that, anything goes.

This is entirely backward: We all know that many actions are wrong, even though they have not yet been spelled out

Ethics rules need tightening

Members of the Nevada Ethics Commission should take the advice of one of the panelists, who says the state's ethics law needs strengthening. Another pass at tightening the rules after the restructuring in 1999 might have warded off the string of prominent cases the group has had to handle in recent months.

Most important of the rules that need addressing is the state's Open Meeting Law, which the Board of Regents has repeatedly come up against.

It's clear that too many officials don't completely understand how and when the public must be privy to

their deliberations and when it is all right to close the doors on meetings. As panelist Bill Flangas suggests, removing the word "willful" from the language could make compliance more complete and enforcement easier.

While no law will ward off all alleged violations — Las Vegas Mayor Oscar Goodman and state Controller Kathy Augustine come quickly to mind — letting the public know the panel is reviewing the rules and making efforts to close loopholes would increase the level of accountability. It would put officials on notice that violations will not be tolerated.

The American Civil Liberties Union and the Nevada Press Association filed a lawsuit against the commission in September 2002 and have asked Senior U.S. District Judge Lloyd George to declare the law unconstitutional.

In court on Thursday, George said he was worried about a portion of the statute that gives the accused just two days to respond to a complaint without requiring notification of the specific allegations.

"That has to create some due-process question," the judge said.

The law allows the commission to impose a fine of up to \$5,000 if it finds that a person or organization maliciously made a false statement with the intent to impede the success of an election.

"The question becomes: What purpose is served by this statute that is not already served by the threat of civil suit for defamation?" George said.

Elizabeth Macias Quillin, regional chief deputy attorney general, said civil cases can take years to litigate.

"You need something more rapid than the typical judicial process, and I understand that," George said.

Attorney Allen Lichtenstein, who represents the plaintiffs, argued that candidates do not need more legal protection.

"We believe the best antidote to bad speech is more speech," he said.

Quillin argued that the intent of the statute is to protect the voting public, not candidates.

Lichtenstein said the statute inappropriately allows the commission to fine reporters or members of the general public.

Senate Majority Leader Bill Raggio, R-Reno, authored the truth-in-campaigning law in 1997 as a way to rid the state of negative campaigns. Critics say it violates the First and 14th Amendments of the U.S. Constitution.

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Judge questions ethics statute

Law prescribes fines for lies in campaigns

By CARRI GEER THEVENCT

REVIEW-JOURNAL

A federal judge expressed concerns Thursday about a Nevada law that allows the state Ethics Commission to fine those who make false statements about political candidates.

5 (A)

Panelist wants teeth in law

Ethics Commission: Rules allow Nevada public officials to escape punishment.

ASSOCIATED PRESS

A veteran member of the Nevada Ethics Commission says the state's ethics law should be strengthened to ensure that errant public officials are punished.

Bill Flangas, appointed to the commission in 1999 when it was restructured, said revisions are

needed "to gain improved public respect and dispel the negative perception of a 'toothless' commission."

The law currently requires a willful violation for a person to be found guilty and fined for an ethics violation, and Flangas said the word "willful" should be deleted to make it easier to prove a violation.

The commission voted last May to find Las Vegas Mayor Oscar Goodman guilty of an ethics violation by using his position to help his son's business. But the commission split on whether the violation was willful, so he was not fined.

The law says the commission may impose a penalty of up to \$5,000 for the first "willful violation" of the law, up to \$10,000 for the second and up to \$25,000 for the third.

The 1999 Legislature overhauled the ethics commission and increased its staff. But Flangas said he detects "a strong public perception that very little has really changed and that the public's hunger for accountability remains unfulfilled."

Flangas added Monday the public perception is that the commission doesn't "have the guts to stand up to corrupt politicians."

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Ethics panelist wants to put teeth in law

By Cy Ryan

SUN CAPITAL BUREAU

11/7/05

CARSON CITY — A veteran member of the state Ethics Commission believes the state's ethics law should be strengthened to help punish public officials who have gone awry.

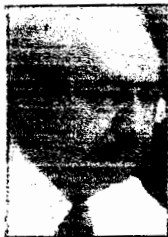
William Flangas, appointed to the commission in 1999 when it was restructured, said it "is now time to consider further revisions to gain improved public respect and dispel the negative perception of a 'toothless' commission."

Flangas of Las Vegas said the term "willful" must be deleted from the law.

It currently takes a willful violation for a person to be found guilty and fined.

"A violation is a violation," Flangas said. He made his remarks during the teleconference meeting of the commission in Las Vegas and Reno last week.

But the rest of the commissioners did not endorse his suggestion. Stacy Jennings, executive director of the commission, said Friday the commission did not take a vote



William Flangas

The veteran member of the state Ethics Commission wants the word "willful" deleted from the law.

on the suggestions. Flangas said the commission will consider the recommendations.

Flangas declined to comment on any specific case involving the word "willful." He said commission rules prevent him from talking about individual cases or speaking outside commission public hearings.

The commission voted last May to find Las Vegas Mayor Oscar Goodman guilty of an ethics violation by using his elected position to help his son's business. The commission, however, split on whether or not the violation was willful, so Goodman was not fined.

The law says the commission may impose a penalty of up to \$5,000 for the first "willful violation" of the law, up to \$10,000 for the second and up to \$25,000 for the third.

An ethics violation should be ap-

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Ethics

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proached just like a speeding ticket, Flangas said. The motorist may not have been aware he was speeding, but he still gets fined.

In talking about the word "willful," Flangas said, "Timid interpretations of this term can result in significant subjective and contentious conclusions that provide escape from accountability."

The 1999 Legislature overhauled the ethics commission and increased its staff. Flangas said the new commission "has generally done well considering the limitations and circumstances of the current law, but I detect a strong public perception that very little has really changed and that the public's hunger for accountability remains unfulfilled."

He said Monday the public perception is that the commission doesn't "have the guts to stand up to corrupt politicians." But he declined to cite any case, saying only that such "perceptions" come from those in the public he talks to.

The actions of a few greedy, free-wheeling, corrupt, unethical public officers bring shame and disgrace to the political process and unfairly stigmatize the vast majority of sincere, honest, hard-working and dedicated public officers who conscientiously serve the public trust," he said in his prepared statement.

The law requires two of the eight commissioners to sit on a panel to decide if there is sufficient evidence on a complaint to go to a full hearing before the commission that makes the final decision. The law says the two commissioners on the panel are barred from sitting at the subsequent hearing.

Flangas said the law should be changed to permit the law

members to participate and vote or at least take part if not voting.

Although not in the ethics law, Flangas also suggested that state law be changed to require competitive bidding on all publicly owned facilities such as airport concessions.

"This would help curb the temptation for deliberate or inadvertent cronyism," he said.

Flangas would also like to see "wider diverse appointments" to the commission.

The governor appoints four members, at least two of whom are former public officers. One of the four must be a lawyer. The Legislative Commission also appoints four with two of them former public officials. And one of the four must be a lawyer.

Presently five of the eight members are lawyers. Flangas said "Perhaps the time has come to reduce these mandatory requirements and permit wider diverse appointments," he said at the commission meeting last week.

ETHICS

William Flangas, of the state's Ethics Commission, has urged the state to tighten up its ethics laws, an issue that may have additional currency in the wake of the failed Kathy Augustine impeachment. But will his recommendation be enough?

Thus: I totally support [Flangas]. In fact, I've got a couple of ethics bills myself.

One of them requires public employees to take a leave of absence without pay, just as I have always done. The other one defines political activity and makes it clear that nobody in office can use their staff or state equipment to be engaged in political activity.

L.V. Weekly 2/5-9/05

Ethics panel clears Perkins

By Ryan

N CAPITAL BUREAU
1/5/05

CARSON CITY — A panel of the state Ethics Commission cleared Assembly Speaker Richard Perkins of suppressing an investigative report on Assemblyman Mark Manendo over allegations of sexual misconduct.

The panel Tuesday said there was insufficient evidence to go forward to a hearing of the full commission on the complaint filed by Republican activist Dan Burdish of Las Vegas.



Perkins

Perkins, D-Henderson, lauded the Burdish complaint a campaign smear brought on the day before the election. He said the investigative report was not his to release.

Burdish was irked by the decision of the ethics panel. He said Perkins asked for the investigation, received the report, and then asked for a clarification. To maintain this is a report not subject to the Nevada's open-records law is ridiculous, Burdish said.

Perkins maintained the report was a confidential communication from the staff of the Legislative Counsel Bureau, and thus could not be considered a public document. He said the complaint by Burdish as filed Nov. 1 and was a desperate attempt to influence the results of an election, not a legitimate inquiry regarding unethical conduct.

During the 2003 Legislature, reports surfaced that Manendo, D-Las Vegas, may have been involved in misconduct toward a female intern in the Assembly. An investigation as ordered and conducted by the Malkiewich, director of the Legislative Counsel Bureau.

Malkiewich said there was never an official complaint filed and when he completed his investigation, he reported to Perkins. He said his communications with Perkins were confidential.

The report is now in Malkiewich's possession alone.

Malkiewich said the law is clear that all matters entrusted to the legislative staff are confidential unless the persons involved request or consent to its disclosure.

"In this instance, some of the people from whom I obtained this information have not consented to its disclosure and others have specifically requested that it be kept confidential," Malkiewich told the panel.

Stacy Jennings, executive director of the Ethics Commission, agreed that the report is not a public record, Perkins is not the legal custodian and he could not suppress a report over which he has no control. She said Perkins had no pecuniary interest related to the suppression of or the public release of the report.

Burdish, in his complaint filed Nov. 1 last year, said release of the report could unfavorably affect Perkins' pecuniary interests by changing the balance of power in the Assembly, prevent him from being re-elected speaker and could affect his re-election.

Burdish said Tuesday that Malkiewich answers to Perkins and added, "We've got a sunshine law and this is a matter of public record."

He said Perkins, apparently acting on the report, "punished" Manendo by taking away his chairmanship of the Assembly Government Affairs Committee. "He (Perkins) publicly slapped him (Manendo) down," said Burdish.

Perkins said Manendo "felt he was a better fit in the Judiciary Committee" where he was assigned.

He said a great many factors are considered in assigning members to the various committees.

OUR VIEWS

LVSW 1/19/05

Changing law isn't enough

● **AT ISSUE:** A member of the state Ethics Commission believes the Legislature should strengthen ethics laws.

● **OUR TAKE:** The Legislature should seriously evaluate ethics enforcement, and make changes where needed, but the laws will only be as good as the people on the commission enforcing them.

Bill Flangas, a member of the state Ethics Commission, believes that the public has lost respect for the commission, viewing it as "toothless." So he is calling for new laws that would strengthen the commission's hand when dealing with elected officials who have been accused of ethics violations. For instance, Flangas wants to change the requirement that it takes a "willful" violation for an official to be found guilty and fined. Flangas believes the term "willful" should be dropped from the law because, he says, "broad interpretations of this term can result in conclusions that provide escape from accountability."

Flangas, citing the commission's rule that prevents members from discussing individual cases, declined to cite specific instances where the term "willful" has posed an obstacle. But a case clearly fitting Flangas' concerns occurred last year when Las Vegas Mayor Oscar Goodman dodged being found guilty of ethics violations for promoting a business co-owned by his son. Fortunately for Goodman, four commissioners presiding at the hearing deadlocked 2-2 on whether the mayor's actions constituted a "willful" violation.

The proposal by Flangas certainly deserves serious consideration by the Legislature, but it's only part of the solution. No matter how tough the laws are made, in the end it's up to the people who sit on the Ethics Commission to have the resolve to deliver stiff punishments. So, even if the term "willful" is removed from the law, if the Ethics Commission isn't comprised of individuals who are strong, they will find other excuses so someone can escape being found guilty. And, for that matter, even when the Ethics Commission acts decisively it doesn't always get the desired results. Last year state Controller Kathy Angertine admitted to the Ethics Commission that she had committed three willful violations of ethics laws, but at her impeachment trial the state Senate inexplicably refused to remove her from office even after it had convicted her of one of the counts.

The Legislature should thoroughly evaluate the flaws of our ethics laws and fix them, and those members of the Ethics Commission who don't believe they can make tough decisions should step aside for others who will. Otherwise, court and public cynicism to get worse.

8

Augustine must step down now

● AT ISSUE: State Controller Kathy Augustine is vowing to stay on in her job despite the fact that she stipulated to an agreement with the Ethics Commission that she "willfully" violated state ethics laws.

● OUR TAKE: The Nevada Constitution requires that Augustine face impeachment following this finding, but she instead should resign, allowing the governor to name someone with integrity to assume the job.

This week state Controller Kathy Augustine formally acknowledged that she had willfully violated state law when she made her staff work on her 2002 re-election campaign while they were also on state time. In July, after it appeared likely that Augustine would settle an ethics complaint against her this way, we wrote that she should resign if this indeed came to pass. Many of her fellow Republicans would like to see Augustine resign, too, but she says she won't and that she intends to serve out her term, which lasts another two years.

The state Ethics Commission, which heard the complaint lodged against her by the state attorney general's office, on Wednesday voted 3-2 to accept the stipulation that found Augustine guilty of three violations of state law and fined her \$15,000. Augustine can't find solace, though, in the two votes against the stipulated agreement. Commissioner William Flanagan said the fine was too low and should have been set at \$25,000. Flanagan noted that there was compelling evidence that demonstrated not only unethical conduct but also flagrant, reckless and shameless abuse of authority. Commissioner Mark Hutchinson also voted against the settlement, saying there should have been a full public hearing on the allegations. But the Ethics Commission met behind closed doors for two hours to discuss the stipulation before emerging to read and approve it. A full-blown hearing could have lasted up to three days. There definitely should have been a public hearing, ensuring a complete airing of what happened. Also, there's no reason why Augustine should have been spared what very likely would have been the public humiliation of sitting through such a lengthy hearing. Nevertheless, now that she has been found to have willfully violated state ethics laws, she will face the prospect of impeachment proceedings. If the Assembly decides to charge Augustine, she then would face a trial in the Senate and, if convicted, could be removed from office.

Augustine is going to face her day of political reckoning eventually — and it's hard to imagine even a Republican-controlled Senate refusing to remove her from office after what she's admitted to have done. But impeachment proceedings may not begin until the Legislature convenes again in regular session about five months from now, which is why she should resign immediately. Augustine already has done enough damage by violating the public's trust. The least that she could do is leave now and let Gov. Kenny Guinn appoint someone with integrity to take over the job.

Controller should step down

Do the honorable thing, Ms. Augustine, and resign your post

As many had predicted, the state Ethics Commission came down hard Wednesday on Nevada Controller Kathy Augustine. Shortly before her hearing, Ms. Augustine — one of the state's six constitutional officers — stipulated that she willfully violated the law on three occasions, once when she had a staff member work on her 2002 re-election campaign while still on the clock and twice when she used state office equipment to further that same campaign.



Augustine: willful violations

The panel responded by voting to fine Ms. Augustine, a Republican, \$15,000. Under state law the case will now be forwarded to the Assembly for impeachment proceedings.

The vote was 3-2, but the dissenting board members were not urging that Ms. Augustine be exonerated. Far from it. Commissioner Bill Flanagan voted in the minority because he felt the fine should have been higher. Commissioner Mark Hutchinson voted no because he favored going forward with a complete public hearing on all the evidence.

After the decision, Ms. Augustine read a prepared statement in which she apologized to Nevadans. But she indicated she would not step down.

Ms. Augustine should reconsider — immediately.

Hers was not a minor error. Laws prohibiting elected officials from forcing government bureaucrats to engage in partisan political activity while they're supposed to be working for the taxpayers originated out of the cesspools of corruption that dominated many of the country's large cities during the late 19th and early 20th centuries.

Ms. Augustine was no political neophyte who could throw herself at the mercy of the panel by claiming ignorance of the law. She is a former assemblywoman and state senator who had her eyes on the governor's mansion.

No state constitutional officer has ever been impeached. Because the Assembly won't be back in session until February — and a special session appears unlikely — it will be at least four months before lawmakers can address the matter.

In the meantime, a cloud hangs over Ms. Augustine and her office, which administers the state's accounting system. That's not good for morale or productivity. The taxpayers deserve better.

If in the next few days Ms. Augustine sticks to her pledge not to resign, the heavy hitters in the state Republican Party — including low-profile Gov. Kenny Guinn — should publicly turn the screws on her and make it clear that they'd prefer otherwise.