



**In the Matter of the Request for Opinion  
Concerning the Conduct of MIKE BELL,  
Vice-Chair, Humboldt County Board of  
County Commissioners,  
State of Nevada,**

**Request for Opinion No.: 10-116C**

**Subject.**

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**EXECUTIVE DIRECTOR'S REPORT AND RECOMMENDATION**

The following report and recommendation is based on the Commission staff's consideration and investigation of the Third Party Request for Opinion filed against Humboldt County Commissioner Mike Bell ("Subject"), a public officer, and on the Subject's written response to the RFO, both attached as exhibits to this report and recommendation, and the other exhibits attached hereto. This Executive Director's Report and Recommendation and its exhibits are provided for the consideration of the two-commissioner investigatory panel, pursuant to NRS 281A.240.

**Facts:**

The main party involved is County Commissioner Mike Bell, who works as the Information Technology (IT) Director of the Humboldt County Hospital.

Following the 2010 general election, the individual elected to a seat on the Humboldt County Hospital Board of Trustees declined the position. The County Commission appointed another individual to fill the vacancy.

When the agenda item was called, Mr. Bell made the following disclosure (transcribed from Exhibit D-1. The disclosure was at 2:30:00, the vote followed two hours and fifteen minutes later - at 4:45:00.)

**Bell:**

*"Mr. Chairman, I have a disclosure. I am a Hospital Board employee and as such, I just need to make that disclosure. Any decision that the Hospital Board would make would not affect me materially one way or the other any more than any other hospital employee so, with that disclosure ... and I talked to legal counsel ... I am not going to abstain; I will be partaking in this discussion."*

Chair Giordano:

*"Ok, that sounds right ... Kent?" (referring to Kent Maher, legal counsel)*

Kent Maher:

*"I agree." (difficult to understand but the written record shows "Maher concurred")*

**Allegations:**

The main allegation is that Mr. Bell failed to abstain from voting after disclosing a conflict of interest at the December 6, 2010 meeting of the County Commission in which a person was selected to fill a vacancy on the Humboldt County Hospital Board. The Requester alleges that "this could lead to a conflict of interest." The oral recording of the meeting shows that Mr. Bell did indeed disclose his conflict of interest as is required by NRS 281A.420(1).

1. Except as otherwise provided in this section, a public officer or employee shall not approve, disapprove, vote, abstain from voting or otherwise act upon a matter:

- (a) Regarding which the public officer or employee has accepted a gift or loan;
- (b) In which the public officer or employee has a pecuniary interest; or
- (c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interest of others, without disclosing sufficient information concerning the gift, loan, interest or commitment to inform the public of the potential effect of the action or abstention upon the person who provided the gift or loan, upon the public officer's or employee's pecuniary interest, or upon the persons to whom the public officer or employee has a commitment in a private capacity. Such a disclosure must be made at the time the matter is considered. If the public officer or employee is a member of a body which makes decisions, the public officer or employee shall make the disclosure in public to the chair and other members of the body. If the public officer or employee is not a member of such a body and holds an appointive office, the public officer or employee shall make the disclosure to the supervisory head of the public officer's or employee's organization or, if the public officer holds an elective office, to the general public in the area from which the public officer is elected.

Mr. Bell also referred to an exception from the abstention requirements outlined in NRS 281A.420(3) and particularly NRS 281A.420(4)(a), announced that he would not abstain from voting on the issue, and Board Counsel agreed, on the record, per the statutes provided below.

3. Except as otherwise provided in this section, in addition to the requirements of subsection 1, a public officer shall not vote upon or advocate the passage or failure of, but may otherwise participate in the consideration of, a matter with respect to which the independence of judgment of a reasonable person in the public officer's situation would be materially affected by:

- (a) The public officer's acceptance of a gift or loan;
- (b) The public officer's pecuniary interest; or
- (c) The public officer's commitment in a private capacity to the interests of others.

4. In interpreting and applying the provisions of subsection 3:

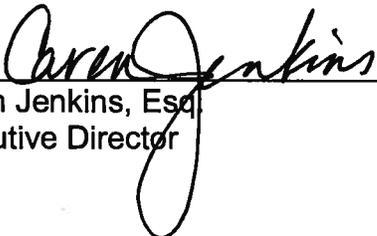
(a) It must be presumed that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by the public officer's pecuniary interest or the public officer's commitment in a private capacity to the interests of others where the resulting benefit or detriment accruing to the public officer, or if the public officer has a commitment in a private capacity to the interests of others, accruing to the other persons, is not greater than that accruing to any other member of the general business, profession, occupation or group that is affected by the matter. The presumption set forth in this paragraph does not affect the applicability of the requirements set forth in subsection 1 relating to the disclosure of the pecuniary interest or commitment in a private capacity to the interests of others.

It appears that, based on the statute, no evidence was presented that Mr. Bell's independence of judgment and ability to vote would be materially affected by this conflict, as Mr. Bell does not stand to gain any more than any other department head at the hospital by selecting a hospital trustee to serve as the employer of the Hospital CEO and to make policy decisions about the future of the hospital. Therefore, the credible evidence standard is not met.

**Conclusion and Recommendation:**

Based on the provisions of NRS 281A.420(4)(a), I recommend that the Panel find just and sufficient cause **DOES NOT EXIST** for the Commission to render an opinion on the above allegations against Humboldt County Hospital Board Member Mike Bell, specifically the alleged violation of NRS 281A.420(3).

**I hereby provide this, my recommendation, to this honorable panel.**

 \_\_\_\_\_ Date: 2/28/11  
Caren Jenkins, Esq.  
Executive Director