

**Advisory Opinion No. 01-05**  
**BEFORE THE NEVADA COMMISSION ON ETHICS**  
**IN THE MATTER OF THE REQUEST FOR ADVISORY OPINION OF**  
**JAMES E. CONNELLEY, (former) Chairman, Nevada State Board of Agriculture**

This matter came before the Nevada Commission on Ethics (hereinafter the "Commission") on March 15, 2001, on the request for advisory opinion filed by James E. Connelley, former member and Chairman of the Nevada State Board of Agriculture, pursuant to NRS 281.511, Subsection 1. The matter was properly noticed as a confidential matter and the hearing was closed pursuant to NRS 281.511, Subsection 5. Following the hearing, Mr. Connelley waived his right to confidentiality in this matter. Therefore, this Advisory Opinion will be issued and published without the constraint of confidentiality.

Mr. Connelley seeks the Commission's advisory opinion regarding future employment with the Nevada Department of Agriculture.

Mr. Connelley appeared by telephone and was sworn and presented testimony. Paul Iverson, Director of the Nevada Department of Agriculture, appeared in person at Mr. Connelley's request and was sworn and presented testimony.

The Commission, after full consideration of the request for opinion, the testimony, and the evidence makes the following Findings of Fact and Conclusions of Law:

**FINDINGS OF FACT**

1. The State Board of Agriculture establishes policy to "benefit and promote the welfare of all the people of the State of Nevada" and "promote the efficient, orderly and economical conduct of the various activities for the encouragement, advancement and protection of the livestock and agricultural industries of the State of Nevada." (NRS 561.015). The State Department of Agriculture administers the board's policy. Paul Iverson is the Director of the Department of Agriculture, a position he has held since approximately September 1995.
2. The board is composed of ten members appointed by the governor. Each of the ten members must be actively involved in a specific livestock or agriculture-related business as provided in NRS 561.055.
3. Mr. Connelley was appointed to the Board of Agriculture based upon his active involvement in the livestock business as owner and manager of a cattle ranch. He served as a member for 13 years, the last four as chairman. Mr. Connelley recently sold his cattle ranch and, therefore, resigned his appointment to the board.
4. The position of Division Administrator for the Division of Livestock Identification and Brands of the Department of Agriculture (hereinafter "Division Administrator") is a full-time, paid position in the unclassified service of the state and has been vacant for several years. During those years, the board and the department have been looking for a qualified livestock producer with public service experience to fill that position.
5. After Mr. Connelley resigned from the Board of Agriculture, and with the unanimous support of the board, he applied for and was offered the position of Division Administrator.
6. Mr. Connelley's public service experience includes his 13 years on the Board of Agriculture and a number of years on a local school board.

**CONCLUSIONS OF LAW**

1. Mr. Connelley was a public officer as defined by NRS 281.005 and NRS 281.4365 during the time he served as a member and as Chairman of the State Board of Agriculture.
2. The position of Division Administrator which Mr. Connelley contemplates assuming will make him a public employee as defined in NRS 281.436.

3. The Commission has jurisdiction to render an opinion in this matter pursuant to NRS 281.511, Subsection 1, and NRS 281.521.

**WHEREFORE**, on motion duly made, seconded, and approved by unanimous vote, the Commission renders the following Opinion:

### **OPINION**

The Nevada Legislature, in 1977 when it enacted the Nevada Ethics in Government Law (NRS 281.411, et. seq.), declared it to be the public policy of this state that (a) a public office is a public trust and shall be held for the sole benefit of the people; and (b) a public officer or employee must commit himself to avoid conflicts between his private interests and those of the general public whom he serves. NRS 281.421, Subsection 1.

Nothing in the facts or circumstances of this matter suggests that by taking the position of Division Administrator, Mr. Connelley will offend the spirit or intent contemplated by Nevada's Ethics in Government laws. Nor does anything in the facts and circumstances of this matter suggest a violation of any provision of NRS Chapter 281, including specifically NRS 281.236 and NRS 281.481, Subsection 10.

NRS 281.236 was designed to prevent a public officer or public employee from using that public position to enhance private sector employment. The statute provides specific restrictions on, and cooling off periods before, moving from a governmental position into the private sector and, in effect, capitalizing on a one's public role to further private sector employability. However, neither the specific provisions of NRS Chapter 281 nor the public policy identified by the Legislature in enacting the ethics in government law prevent one from serving on a board for some period of time and then accepting employment as a public employee. In fact, it would appear that public employment of a former public board member would actually benefit the public interest. In this matter, it is significant to note that the position of Division Administrator has been very difficult to fill for a long period of time.

To employ someone in public service as a public employee who brings the depth of background, experience, expertise, and interest as does Mr. Connelley could only further the public interest.

The only other provision of NRS Chapter 281 which warrants review herein is NRS 281.481, Subsection 10, which prohibits a public officer or employee from seeking other employment or contracts through the use of his official position. There is absolutely no evidence in the facts or circumstances of this matter or from the testimony presented to the Commission that suggests a violation of NRS 281.481, Subsection 10.

Therefore, should Mr. Connelley decide to accept the position of Division Administrator for the Division of Livestock Identification and Brands of the Department of Agriculture, his employment will not offend any provision of Nevada's Ethics in Government Law as provided in NRS Chapter 281.

**NOTE: THE FOREGOING OPINION APPLIES ONLY TO THE SPECIFIC FACTS AND CIRCUMSTANCES DEFINED HEREIN. FACTS AND CIRCUMSTANCES THAT DIFFER FROM THOSE IN THIS OPINION MAY RESULT IN AN OPINION CONTRARY TO THIS OPINION. NO INFERENCES REGARDING THE PROVISIONS OF NEVADA REVISED STATUTES QUOTED AND DISCUSSED IN THIS OPINION MAY BE DRAWN TO APPLY GENERALLY TO ANY OTHER FACTS AND CIRCUMSTANCES.**

DATED: March 27, 2001.

NEVADA COMMISSION ON ETHICS

By: /s/ PETER C. BERNHARD, Chairman