



Confidentiality Waived 3/21/17

STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the First-Party Request
for Advisory Opinion Concerning the
Conduct of **Steven M. Stork**, County
Commissioner, White Pine County,
State of Nevada,

Request for Opinion No. **17-01A**
CONFIDENTIAL

Public Officer. /

CONFIDENTIAL OPINION

I. STATEMENT OF THE CASE

Steven M. Stork ("Stork"), as the newly elected member of the County Commission for White Pine County ("County"), State of Nevada, requested this confidential advisory opinion from the Nevada Commission on Ethics ("Commission") pursuant to NRS 281A.440(2), regarding the propriety of his anticipated future conduct as it relates to the Ethics in Government Law ("Ethics Law") set forth in Chapter 281A of the Nevada Revised Statutes ("NRS"). A quorum¹ of the Commission heard this matter on February 15, 2017. Stork appeared telephonically and provided sworn testimony.

Stork sought an opinion from the Commission regarding his responsibilities under the disclosure and abstention requirements of the Ethics Law associated with his contemporaneous public service as a County Commissioner and a member of the Board of Fire Commissioners of the White Pine County Fire Protection District ("Fire District"), which may affect the interests of his brother, who is employed by the City of Ely as a firefighter/emergency medical technician (collectively "firefighter").

After fully considering Stork's request and analyzing the facts, circumstances and testimony presented by Stork, the Commission deliberated and advises Stork of its decision that, in accordance with the Ethics Law and opinions of the Commission, Stork shall disclose his familial relationship with his brother and abstain from participation, supervision or action upon matters presented to either the County Commission or the Fire District that are associated with the individual interests of his brother, including employment, salary, benefits, personnel, grievance, special assignment, promotion, discipline, litigation or similar matters (collectively "Personnel Matters").

The Commission further advises that Stork is not precluded from performing his official duties as a County Commissioner with respect to consideration of a certain Feasibility Study providing options for cooperative fire services to the public for the City of Ely and White Pine County, and associated future interlocal agreements which do not directly implicate his brother's private interests. However, should Stork's official duties implicate the individual interests of his brother, he is advised to be vigilant and properly disclose his conflicts as indicated herein in consultation with the independent office of the

¹ The following Commissioners participated in this Opinion: Chair Lau, Vice-Chair Weaver and Commissioners Duffrin, Gruenewald, O'Neill, Stewart and Yen.

District Attorney for White Pine County ("District Attorney"), and conduct an analysis regarding application of the abstention requirements set forth in NRS 281A.420(4).

The Commission now renders this final written Opinion stating its formal findings of fact and conclusions of law.²

The facts for this Opinion were obtained from documentary and testimonial evidence provided by Stork. For the purposes of the conclusions offered in this Opinion, the Commission's findings of fact set forth below accept as true those facts Stork presented. This Opinion is limited to the circumstances considered by the Commission. Facts and circumstances that differ from those presented to and relied upon by the Commission may result in different findings and conclusions than those expressed in this Opinion.

II. QUESTIONS PRESENTED

As a member of the County Commission and Board of the Fire District, Stork is charged with certain public duties, authority, responsibilities and control over the County and the Fire District, and their respective departments, officers and employees. Stork's brother is employed as a firefighter by a separate public agency, the City of Ely. Stork understands the need to properly disclose to the public the full nature and extent of the conflict of interest related to his familial relationship with his brother, a person to whom he has a commitment in a private capacity, on any County or Fire District matter that reasonably affects the private interests of his brother. Stork also recognizes the duty to a person to abstain from involvement and participation on any matter that may materially affect the pecuniary or other private interests of his brother, including Personnel Matters.

More specific than a general understanding of the Ethics Law, Stork seeks advice regarding whether he may participate in a certain matter involving consideration of a Feasibility Study that presents options for the County and City of Ely to provide cooperative fire services to the public through future interlocal agreements, including mutual and automatic aid agreements. Any such agreements have potential to impact his brother's employing agency.

This question implicates the provisions of NRS 281A.020 (maintaining proper separation between public duties and private interests); NRS 281A.400(2) (use of government position to secure or grant unwarranted privileges, preferences, etc. to a person to whom the public officer has a commitment to in a private capacity); and NRS 281A.420 (disclosure of conflicts of interest and abstention).

III. FINDINGS OF FACT

1. On November 11, 2016, Stork was elected as a County Commissioner serving on the Board of County Commissioners for White Pine County, State of Nevada, and was sworn into office on January 3, 2017.
2. As part of his duties as a County Commissioner, Stork contemporaneously serves as an ex officio member of the Board of Fire Commissioners for the Fire District pursuant to NRS 474.460.

² The individual comments made by any Commissioner during the hearing are not binding on the Commission's final opinion.

3. The Fire District provides fire services to the County. It is a volunteer fire department with paid staff, 100+ volunteers and 8 stations, dealing with structure and wild land fires, accidents, medical calls, Haz-Mat, and any other emergencies for which it is called to assist ("Fire Matters").
4. The City of Ely maintains a separate fire department consisting of employees, volunteers and equipment to respond to emergency fire and emergency medical service situations within city limits. It utilizes the dispatch services of the White Pine County Sheriff to provide such services.
5. The duties of a County Commissioner are established in NRS Chapter 244 and the duties of a member of the Fire District Board are established in NRS Chapter 474. Both entities and the City of Ely are authorized to enter into interlocal agreements pursuant to NRS Chapter 277, which provides for processing of various forms of cooperative agreements between government entities.
6. Stork's brother is currently employed as a firefighter for the City of Ely. His brother was hired by the City as a firefighter more than 19 years ago, prior to Stork's election to the White Pine County Commission. Stork's brother is employed pursuant to a collective bargaining agreement between the City of Ely and its employees. Neither the County nor the Fire District have any authority over the collective bargaining agreement or other employment matters associated with Stork's brother, as those matters are under the authority of the City of Ely.
7. The Fire District engaged Emergency Services Consulting International ("ESCI") to conduct a Cooperative Efforts Feasibility Study, which report was issued in September 2016 ("Feasibility Study").³ Among other matters, the Feasibility Study identified opportunities for cooperation between the County, Fire District and the City of Ely, including consolidation and other unification alternatives. See Feasibility Study p. 104-107.
8. In considering the Feasibility Study, the affected public entities expect to consider the amount of autonomy or legal status each desires to maintain and the various opportunities presented in the Feasibility Study to enhance service delivery to the public.
9. The Feasibility Study indicates that the public entities may: a) continue to operate separately reserving full legal control over administration/operations; b) retain partial control over administration/operations; or c) proceed with a full unification of administration/operations to be placed under control of one agency, which may be in the form of a newly created board. The options vary and are dependent on each entity's position. The Feasibility Study presents the following options for consideration by the County, the Fire District and the City of Ely:
 - A. Administrative Consolidation – separate legal status and operational elements are maintained and certain administrative functions are combined such as clerical, Human Resources, IT or financial functions. Administrative Consolidation could also combine administration and management under one fire chief. Feasibility Study pgs. 104-105.

³ The Feasibility Study is a public document available from the County and Fire District.

- B. Functional Consolidation – separate legal status and operational control are maintained with certain shared functions. Examples include purchasing, firefighter training, fire prevention, closest force response, and administrative and support services. Feasibility Study p. 105.
 - C. Operational Consolidation - administration and operations of the public entities are combined to provide services to the public. Certain independence, autonomy and control is affected dependent on the form of the consolidation. For example, depending on the form of agreement, personnel may remain with the original agency or be transferred to another agency, or to an entirely new entity if created. Feasibility Study p. 106.
 - D. Legal Unification or Merger – Fire agencies may join into a single entity, uniting programs and operations. Under NRS 277.105, legal unification would require the establishment of a new governing body made up of representatives from participating entities. Feasibility Study pgs. 106-107.
- 10. In furtherance of cooperation, the County, the Fire District and the City of Ely may consider interlocal agreements for mutual and automatic aid and dispatch services relating to fire and emergency medical services to be received from or provided to the City of Ely. These form of agreements would maintain legal separation and unilateral control by each entity over administration and operations.
 - 11. Currently, the County, Fire District and the City of Ely do not have a form of cooperative agreement in place covering the delivery of fire and emergency medical services. Stork anticipates consideration of the options set forth in the Feasibility Study in the near future, but believes that each entity, similar to past agreements, will retain responsibility over their individual employees, including salaries and compensation of any firefighter, EMS personnel, agent, employee or representative needed to provide contract services. The cooperative agreement might take the form of a contract for services, as presented in Strategy B of the Feasibility Study. See Feasibility Study pgs. 110-112. However, there is some potential for selection of another option presented in the Feasibility Study.
 - 12. Separate from the cooperative or unification options presented in the Feasibility Study, any one agency, in conducting its individual operations, may close or open departments, increase or decrease personnel, increase or decrease salary and benefit packages as permitted by law. The individual activities of an individual agency may remotely impact the personnel of other agencies. By way of example, if one agency outsources services to another, a need may be created to increase staff and associated salary or benefits. Alternatively, the agency receiving the services, may have a need to decrease staffing and equipment. As a tangential consequence, additional job security might be provided to the employees of the agency acting as the contract service-provider.

IV. STATEMENT AND DISCUSSION OF ISSUES AND RELEVANT STATUTES

A. OVERVIEW OF ISSUES

The citizens of Nevada have a right to be assured to the fullest possible extent that the private interests of their governmental representatives present no conflict of interest between public trust and private gain. The Ethics Law promotes the appropriate separation between public duties and private interests. The Commission has long

maintained the intent of the Ethics Law, currently set forth in NRS Chapter 281A, as follows:

The apparent intent of the provisions of NRS Chapter 281 [now NRS Chapter 281A]...is to prevent public officers and employees from becoming involved in situations generating conflicts between private and public interests so as to preserve and enhance impartiality of public office and faith in the integrity of government. Policy objectives for ethics in government laws in general include:

- Impartiality, fairness and equality of treatment toward those dealing with government.
- Assurance that decisions of public importance will not be influenced by private considerations.
- Maintenance of public confidence in government [].
- Prevention of use of public office for private gain.

A conflict of interest (either actual or potential) is a situation requiring a public officer to serve two masters, presenting a potential; rather than an actuality, of wrongdoing. The wrongdoing does not have to actually occur in order for a prohibited conflict to exist. A public official may have done no wrong in the ordinary sense of the word, but a conflict of interest may put him in danger of doing wrong. It is avoiding even the potential of doing wrong which is the focus of ethics in government laws.

For this purpose, ethics in government laws identify certain types of conflicts of interest and prohibit conduct by public officials that would allow these conflicts to affect decisions of the public official...

In re Public Officer, Comm'n Op. No. 99-57 (2000), at p. 3, cited by *In re Dressler*, Comm'n Op. No. 00-12 (2000), *In re Public Officer*, Comm'n Op. No. 01-14 (2001) and *In re Public Officer*, Comm'n Op. No. 02-01 (2002).

In this Opinion, the Commission advises Stork on the applicable disclosure and abstention requirements set forth in NRS 281A.020, 281A.400(2) and 281A.420 to ensure that proper separation is maintained between his public duties and his private interests, including his commitment in a private capacity to his brother who is a firefighter employed by another public agency, the City of Ely. The Commission appreciates Stork's recognition of these potential conflicts and the District Attorney's careful consideration and advice to his client regarding the ethics implications under NRS Chapter 281A.

B. RELEVANT STATUTES

1) Affirmative Duty to Avoid Conflicts of Interest

NRS 281A.020 (1) provides:

1. It is hereby declared 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.
 - (b) A public officer or employee must commit himself or herself to avoid conflicts between the private interests of the public officer or employee and those of the general public whom the public officer or employee serves.

2) Using Position in Government to Secure or Grant Unwarranted Privileges, Preferences, Exemptions or Advantages

NRS 281A.400(2) provides:

2. A public officer or employee shall not use the public officer's or employee's position in government to secure or grant unwarranted privileges, preferences, exemptions or advantages for the public officer or employee, any business entity in which the public officer or employee has a significant pecuniary interest, or any person to whom the public officer or employee has a commitment in a private capacity to the interests of that person. As used in this subsection, "unwarranted" means without justification or adequate reason.

3) Commitment in a Private Capacity to Interests of Others

NRS 281A.065 provides:

"Commitment in a private capacity," with respect to the interests of another person, means a commitment, interest or relationship of a public officer or employee to a person:

1. Who is the spouse or domestic partner of the public officer or employee;
2. Who is a member of the household of the public officer or employee;
3. Who is related to the public officer or employee, or to the spouse or domestic partner of the public officer or employee, by blood, adoption, marriage or domestic partnership within the third degree of consanguinity or affinity;
4. Who employs the public officer or employee, the spouse or domestic partner of the public officer or employee or a member of the household of the public officer or employee;
5. With whom the public officer or employee has a substantial and continuing business relationship; or
6. With whom the public officer or employee has any other commitment, interest or relationship that is substantially similar to a commitment, interest or relationship described in subsections 1 to 5, inclusive.

4) Disclosure and Abstention

NRS 281A.420(1), (3) and (4) provide, in relevant part:

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 significant pecuniary interest; or
- (c) Which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interests of another person,
 - ↳ without disclosing information concerning the gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of the person that is sufficient 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 significant pecuniary interest, or upon the person 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.

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 significant pecuniary interest; or
- (c) The public officer's commitment in a private capacity to the interests of another person.

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 acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person 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 another person, accruing to the other person, is not greater than that accruing to any other member of any 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 acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

(b) The Commission must give appropriate weight and proper deference to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was elected or appointed and to vote or otherwise act upon a matter, provided the public officer has properly disclosed the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person in the manner required by subsection 1. Because abstention by a public officer disrupts the normal course of representative government and deprives the public and the public officer's constituents of a voice in governmental affairs, the provisions of this section are intended to require abstention only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by the public officer's acceptance of a gift or loan, significant pecuniary interest or commitment in a private capacity to the interests of another person.

V. DECISION

A. COMMITMENT IN A PRIVATE CAPACITY

The requirements of NRS 281A.400(2) instruct that Stork may not use his public position to secure or grant unwarranted privileges, preferences, exemptions or advantages (collectively “preferences”) to any person to whom he has a commitment in a private capacity to the interests of that person. The Commission has confirmed that “a public officer has a *per se* commitment in a private capacity to the interests of a person to whom he is related within the third degree of consanguinity or affinity.” See *In re Murnane*, Comm’n Op. No. 15-45A (2016); *In re Public Officer*, Comm’n Op. No. 10-35A (2010). The relationship with a brother is a familial relationship within the “third degree of consanguinity” encompassed in the definition of a “commitment in a private capacity,” as set forth in NRS 281A.065. See NAC 281A.310(1). A public officer has the ability to secure or grant unwarranted privileges by voting or otherwise acting in matters in which his private interests are affected. Accordingly, the Commission interprets the provisions of NRS 281A.400(2) consistent with its interpretation related to NRS 281A.420.

Stork understands that he has a conflict with respect to matters affecting his brother and must disclose his relationship with and the interests of his brother whenever any matter that directly involves his brother comes before the County or Fire District including Personnel Matters such as salary, benefits and associated collective bargaining matters.⁴ See *In re Murnane*, Comm’n Op. No. 15-45A (2016). Here, the Commission more closely examines how or whether his brother’s interest are materially affected by Stork’s consideration of the Feasibility Study and other options for consolidation of fire safety and prevention resources of the County, Fire District and City of Ely.

B. DISCLOSURE AND ABSTENTION

The County, Fire District and the City of Ely will be considering the Feasibility Study, which offers a selection of cooperative or unification opportunities for fire and emergency-related services ranging from a contract for service to partial or full consolidation. The opportunities presented in the Feasibility Study either maintain individual agency authority over operations and personnel or release some or all of the autonomy of each entity. The Commission understands that a logical sequence of considerations or matters will be presented to the respective entities to complete this process. Specifically, the County and the Fire District likely will first consider and determine which of the opportunities in the Feasibility Study will be pursued. Next, the respective bodies may consider the specific contracts or legal form of the cooperative effort. The legal form may include consideration of interlocal agreements, including mutual aid or automatic aid agreements. The Commission advises Stork to review each step of the process and individual matter under consideration to determine whether they directly implicate the interests of his brother and Stork’s duties of disclosure and abstention under the requirements of the Ethics Law. Accordingly, the Commission’s guidance has two components. The first is guidance on the Feasibility Study and the second is guidance on the future legal form that the cooperation will utilize, contracts/interlocal agreements, etc., the terms of which are yet to be determined.

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⁴ This Opinion applies to “unwarranted” preferences. If a matter arises in the future with an issue as to whether the preference is warranted, Stork may seek an advisory opinion from the Commission.

1) Disclosure Requirements of NRS 281A.420 – Feasibility Study

The Ethics Law requires disclosures in matters: (a) in which a public officer or employee has accepted a gift or loan; (2) in which the public office or employee has a significant pecuniary interest; or (3) which would reasonably be affected by the public officer's or employee's commitment in a private capacity to the interests of another person. NRS 281A.420(1). In several opinions, the Commission has advised that a public officer's disclosure is important even where the conflict is remote in some circumstances. See *In re Public Officer*, Comm'n Op. No. 13-72A (2014) and *In re Weber*, Comm'n Op. No. 09-47C (2009). When considering the options presented in the Feasibility Study, Stork indicates that his participation or vote on the matter is not likely to affect his brother because he does not believe the entities will release individual autonomy over their respective operations and personnel. However, there are several opportunities presented in the Feasibility Study which have potential to release, in part or in full, the autonomy of each agency.

The Feasibility Study presents certain opportunities that may affect his brother's employment, while others may not. The Commission does not weigh the likelihood of any individual option because all options are under consideration and the potential of any single opportunity to effect his brother's private interests is sufficient to trigger the disclosure requirements of NRS 281A.420(1). Consequently, Stork is advised to make a proper disclosure when the Feasibility Study is presented for consideration.

To assist Stork in complying with his duties under the Ethics Law, the Commission provides guidance on the components of a proper disclosure to the public. In general, with respect to matters requiring disclosure under the Ethics Law, the Commission advises that any disclosure must inform the public of the full nature and extent of the conflict at each meeting at which an implicated matter is on the agenda. Stork is reminded that a disclosure required by the Ethics Law during a public meeting must occur "at the time the matter is considered" (NRS 281A.420(1)) and be in compliance with the Commission's published opinions interpreting disclosure requirements, including *In re Woodbury*, Comm'n Op. No. 99-56 (1999), *In re Public Officer*, Comm'n Op. No. 13-86A (2014), *In re Public Officer*, Comm'n Op. No. 13-78A (2014), and *In re Public Officer*, Comm'n Op. No. 13-72A (2014), citing *In re Weber*, Comm'n Op. No. 09-47C (2009).

Stork is reminded that the Ethics Law does not recognize a continuing disclosure or a disclosure by reference. The purpose of disclosure is to provide sufficient information regarding the conflict of interest to inform the public of the nature and extent of the conflict and the potential effect of the action or abstention on the public officer's private interests. Silence based upon a prior disclosure at a prior meeting fails to inform the public of the nature and extent of the conflict at the meeting where no actual disclosure occurred. See *In re Buck*, Comm'n Op. No. 11-63C (2011) (incorporation by reference of a prior disclosure, even though based upon the advice of counsel, did not satisfy the disclosure requirements of NRS 281A.420(1)).

At a minimum, Stork's disclosure should identify his brother's employer, the City of Ely, his position as a firefighter and indicate that, under the Ethics Law, Stork has a private interest in maintaining his brother's employment since Stork has a commitment in a private capacity to the interests of his brother. Stork should advise the public how his vote on the matter could implicate the interests of his brother, including those opportunities presented in the Feasibility Study, such as operational consolidation and legal unification or merger. Even though Stork believes that the public entities will not choose operational consolidation or legal unification/merger and the entities will vote to maintain control over

their respective operations, such vote has yet to occur and all opportunities presented in the Feasibility Study are therefore possible. Further, by refraining from selection of any one option, a benefit or detriment may be derived for Stork's brother, such as maintaining job position, salary and benefits or avoidance of risks associated with reduction in force. The Commission cautions Stork that in application of the disclosure requirements of the Ethics Law, to the extent any acquired information demonstrates that one option does have an effect on his brother's interests, Stork must be sufficient to inform the public about both the nature of the relationship and the extent to which the conflict of interest affects the matter under consideration.

2) Abstention Requirements of NRS 281A.420 – Feasibility Study

In considering abstention, the Commission recognizes the public policy attributes of NRS 281A.420(4), which instruct that appropriate weight and proper deference is to be given to the public policy of this State which favors the right of a public officer to perform the duties for which the public officer was appointed and to otherwise act upon a matter, provided that the public officer has properly disclosed the public officer's commitment in a private capacity to the interests of another person in the manner required by NRS 281A.420(1). Under NRS 281A.420(4)(b), abstention is required only in clear cases where the independence of judgment of a reasonable person in the public officer's situation would be materially affected by Stork's commitment in a private capacity to the interests of his brother.

Further, NRS 281A.420(4)(a) creates a presumption that the independence of judgment of a reasonable person in the public officer's situation would not be materially affected by his commitment in a private capacity to the interests of another if the resulting benefit or detriment accruing are not greater than that accruing to any other member of the profession or group affected by the matter.

With regard to the Feasibility Study, Stork is advised to first make a proper disclosure, to be entitled to avail himself of the provisions of NRS 281A.420(4)(a). However, in reviewing the circumstances presented, the Commission determines that the independence of judgment of a reasonable person in Stork's situation would not be materially affected by his commitment in a private capacity to the interests of his brother because the resulting benefit or detriment accruing to his brother is not greater than that accruing to any other member of the profession or group affected by the matter. Based upon the circumstances presented to the Commission, the options presented in the Feasibility Study are anticipated to have the same resulting benefit or detriment to the affected group of firefighters. Accordingly, under NRS 281A.420(3), Stork's consideration of the Feasibility Study does not present a clear case requiring abstention because it must be presumed that the independence of judgment of a reasonable person, in Stork's situation, would not be materially affected by the commitment in a private capacity to his brother.

3) Disclosure and Abstention Requirements of NRS 281A.420 – Future Matters

Without the specific details or terms and conditions of a future contract, interlocal agreement or other legal form that the cooperation or unification will manifest, it is difficult to ascertain whether the independence of judgment of a reasonable person in Stork's situation would be materially affected by his commitment in a private capacity to the interests of his brother. Further, the Commission's issuance of guidance without this information would be premature. It would be premature as sufficient information is not presented to ascertain whether a future interlocal agreement or contract will implicate

Stork's brother's private interests, and if there is an implication, whether the benefit or detriment is less or greater than the group affected by the matter.

Accordingly, the Commission advises Stork to conduct an analysis under the guidance of his legal counsel regarding the application of the disclosure and abstention requirements set forth in NRS 281A.420 and the interpretive opinions issued by the Commission. Again, disclosure is recommended as set forth above so that Stork can comply with his duty established by NRS 281A.020 to avoid a potential conflict of interest and to avail himself of the presumption set forth in NRS 281A.420(4), if applicable. After a proper disclosure is made, Stork is advised to conduct an analysis of the matter on the record for the benefit of the public, to advise whether the matter has potential to have a direct effect on his brother's employment circumstances, including salary and benefits, or whether the presumption that the matter does not provide a greater or less effect on the group of firefighters favors participation pursuant to NRS 281A.420(4).

VI. CONCLUSIONS OF LAW

1. At all times relevant to the hearing of this matter, Stork was a public officer as defined by NRS 281A.160.
2. Pursuant to NRS 281A.440(1) and NRS 281A.460, the Commission has jurisdiction to render an advisory opinion in this matter.
3. Stork has a conflict of interest between his public duties and his private commitment to his brother, who is related within the third-degree of consanguinity, if a matter directly affecting his brother is presented for consideration to the County or the Fire District.
4. Pursuant to NRS 281A.420(1), Stork must disclose the full nature and extent of the familial relationship with his brother and the associated effect of any actions to be taken by Stork in his official capacity on his brother's private interests and associated Personnel Matters, when considering a matter including, without limitation, the Feasibility Study and future interlocal agreements and contracts. Such disclosure must be made at the time the matter is heard by either the County or the Fire District and be sufficient to inform the public about both the nature of the relationship and the extent to which the conflict of interest affects the matter under consideration.
5. Pursuant to NRS 281A.420(3) and (4), Stork is not required to abstain with regard to the Feasibility Study after he makes a proper disclosure since under the circumstances presented, the independence of judgment of a reasonable person in Stork's situation would not be materially affected by his commitment in a private capacity to the interests of his brother because the resulting benefit or detriment accruing to his brother is not greater than that accruing to any other member of the profession or group affected by the matter.
6. Without the specific details of the terms and conditions of a future contract, interlocal agreement or other legal form that the cooperation or unification will manifest, the Commission does not opine on whether the independence of judgment of a reasonable person in Stork's situation would be materially affected by his commitment in a private capacity to the interests of his brother. Nonetheless, Stork is advised to properly disclose as required by NRS 281A.420(1) and to then conduct an analysis on the implications of his circumstances to NRS 281A.420(3) and (4), with the assistance of legal counsel or the Commission's First-Party advisory opinion process.

Any Finding of Fact construed to constitute a Conclusion of Law, or any Conclusion of Law hereafter construed to constitute a Finding of Fact, is hereby adopted and incorporated as such to the same extent as if originally so designated.

The Following Commissioners Participated in this Opinion:

Dated this 16th day of March, 2017.

By: /s/ Cheryl A. Lau
Cheryl A. Lau, Esq.
Chair

By: /s/ Philip K. O'Neill
Philip K. O'Neill
Commissioner

By: /s/ Keith A. Weaver
Keith A. Weaver, Esq.
Vice-Chair

By: /s/ Lynn Stewart
Lynn Stewart
Commissioner

By: /s/ Brian Duffrin
Brian Duffrin
Commissioner

By: /s/ Amanda Yen
Amanda Yen, Esq.
Commissioner

By: /s/ Barbara Gruenewald
Barbara Gruenewald, Esq.
Commissioner