



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL

100 North Carson Street
Carson City, Nevada 89701-4717

CATHERINE CORTEZ MASTO
Attorney General

KEITH G. MUNRO
Assistant Attorney General

GREGORY M. SMITH
Chief of Staff

June 23, 2011

OPINION NO. 2011-08

CITY COUNCILS; COMPENSATION;
MAYORS: The application of
NRS 266.230 is not limited to instances
when the individual was reelected and/or
did not vote for the raise in compensation.
The plain reading of NRS 266.230
supports the conclusion that the statute
applies generally without any exceptions.

Cheryl Truman Hunt, Esq.
City Attorney
10 East Mesquite Boulevard
Mesquite, Nevada 89027

Dear Ms. Hunt:

You requested an opinion as to whether NRS 266.230 applies to a member of a city council who is subsequently elected to the position of mayor, if the city council raised the compensation for the mayor to be effective in the next term of the office, and if that individual member was on the city council but did not vote for the raise in compensation.

BACKGROUND

On July 1, 2005, Susan M. Holecheck was elected as one of the five members of the Mesquite City Council. The term was four years, which started on July 1, 2005, and ended on June 30, 2009. See Mesquite Ordinance (Ordinance) 1-8-2. On July 1, 2007, in the middle of her city council term, Ms. Holecheck ran for and was elected to the office of Mayor. The term for Mayor commenced on July 1, 2007, and will end on June 30, 2011. See Ordinance 1-5-1.

While Ms. Holecheck was a member of the City Council, on May 1, 2007, the City Council passed Ordinance 1-7-2, which among other things, increased the pay for the office of Mayor. Ms. Holecheck voted against Ordinance 1-7-2; however, the Ordinance was passed with three council members voting in favor of it. Although Ordinance 1-7-2 was passed on May 1, 2007, the effective date of the increase in compensation was July 1, 2007, which was the same date that Ms. Holecheck took office for the first time as Mayor.

QUESTION

Whether NRS 266.230 applies to a member of a city council if the city council raised the compensation for the mayor to be effective in the next term of the office, if that individual city council member did not vote for the raise in compensation?¹

ANALYSIS

NRS 266.230 states:

No member of any city council shall, during the term for which the council member was elected and for 1 year after the expiration of such term, hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased, while he or she was such member.

NRS 266.230.

You suggest that two factors make NRS 266.230 inapplicable. The two factors are: (1) Ms. Holecheck did not vote for the raise in compensation while she was a city council member; and (2) Ms. Holecheck was newly elected to Mayor in 2007, and was not reelected.

A plain reading of NRS 266.230, however, does not support the suggestion that the two factors above limit the applicability of the statute. In Op. Nev. Att'y Gen. No. 99-27 (August 5, 1999) (AGO 99-27), this Office explained that in statutory construction:

Courts must construe statutes and ordinances to give meaning to all of their parts and language. . . . The Court should read each sentence, phrase, and word to render it

¹ It should be noted that although the office of Mayor is a separate office, the Mayor presides over city council meetings, and among other things, may cast a vote to break a tie or exercise the right of veto over legislative actions of the city council. Ordinance 1-5-3.

meaningful within the context of the purpose of the legislation. . . . A reading of legislation which would render any part thereof redundant or meaningless, where that part may be given a separate substantive interpretation, should be avoided. (August 5, 1999)

Op. Nev. Att'y Gen. No. 99-27 citing *Board of County Comm'rs v. CMC of Nevada*, 99 Nev. 739, 744, 670 P.2d 102, 105 (1983). See also *Tomlinson v. State*, 110 Nev. 757, 761, 878 P.2d 311, 313 (1994). Moreover, when construing specific portions of a statute, the statute should be read as a whole, and, where possible, the statute should be read to give plain meaning to all of its parts. *Building Constr. Trades v. Public Works*, 108 Nev. 605, 610, 836 P.2d 633 (1992). Statutes must be construed in light of their purpose as a whole. *Hampton v. Brewer*, 103 Nev. 73, 74, 733 P.2d 852 (1987), cert. denied, 482 U.S. 915 (1987).

Limiting the applicability of NRS 266.230 only to instances when the individual city council member voted for the raise in compensation and/or was reelected to the office does not comport with the rules of statutory construction. A plain reading of NRS 266.230 does not support the proposition that the direction of the vote cast by a member of the council would affect the application of NRS 266.230.

In AGO 99-27, this Office opined that NRS 266.230 plainly applies to individuals who "hold" an office. This Office concluded that "if a city council increases the salaries for elected offices or for newly created offices, the restrictions in NRS 266.230 apply." *Id.* This Office noted that policy considerations such as contractual obligations and prevention of using the influence of the office for salary increases, combined with the "express language in the law" support application of the statute to individuals who hold offices. *Id.*

Although the policy considerations expressed in AGO 99-27 may not be present in this scenario, the express language remains in effect. Accordingly, the applicability of NRS 266.230 is not restricted to individual city council members who were reelected and/or voted for the increase in compensation.

Cheryl Truman Hunt, Esq.
June 23, 2011
Page 4

CONCLUSION

The application of NRS 266.230 is not limited to instances when the individual was reelected and/or did not vote for the raise in compensation. The plain reading of NRS 266.230 supports the conclusion that the statute applies generally without any exceptions. Therefore, the statute applies to Ms. Holecheck in the circumstances described.

Sincerely,

CATHERINE CORTEZ MASTO
Attorney General

By:



NHU Q. NGUYEN
Senior Deputy Attorney General
Government & Natural Resources

NQN/RMH