

ASSEMBLY BILL NO. 240—ASSEMBLYMEN SMITH, CONKLIN, OCEGUERA, BOBZIEN, KIRKPATRICK; AIZLEY, ATKINSON, DIAZ, GOICOECHEA, GRADY, HARDY, HICKEY, HOGAN AND MASTROLUCA

MARCH 7, 2011

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing contracts for services entered into by certain public employers. (BDR 23-149)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to public agencies; revising the restrictions on contracts with or employment of former or current state employees by a state agency; providing certain exceptions; requiring state agencies to report all contracts for services as part of the budget process; requiring that a contractor with a state agency be in active and good standing with the Secretary of State; requiring certain reporting to the 77th Session of the Legislature; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law restricts the employment of consultants by public agencies and
2 requires the approval of certain contracts with consultants by the Interim Finance
3 Committee. (NRS 284.1729) **Section 1** of this bill expands those restrictions to
4 apply to all contracts to provide services to state agencies, revises the exceptions to
5 the restrictions and requires approval of the State Board of Examiners rather than
6 the Interim Finance Committee of contracts subject to the restrictions. **Section 1**
7 also prohibits a state agency from entering into a contract with a person for services
8 without ensuring that the person is in active and good standing with the Secretary
9 of State. **Section 1** also provides that certain provisions governing state purchasing
10 apply to such contracts. **Section 2** of this bill requires state agencies to report all
11 contracts for services as part of the budget process instead of only reporting
12 contracts with consultants and temporary employment services. **Section 3** of this
13 bill moves the reporting requirements for school districts regarding consultants to
14 the chapter which specifically governs school districts. **Section 3.5** of this bill



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15 requires certain reporting to the 77th Session of the Legislature concerning certain
16 contracts for services entered into by state agencies.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 284.1729 is hereby amended to read as
2 follows:

3 284.1729 1. Except as otherwise provided in this section, a
4 department, division or other agency of this State shall not ~~employ,~~
5 ~~by~~ *enter into a* contract ~~for otherwise,~~ *with* a person to provide
6 services ~~as a consultant~~ for the agency if:

7 (a) The person is a current employee of an agency of this State;
8 (b) The person is a former employee of an agency of this State
9 and less than ~~1 year has~~ *2 years have* expired since the termination
10 of the person's employment with the State; *or*

11 (c) ~~Except as otherwise provided in paragraph (d), the term of~~
12 ~~the contract is for more than 2 years, or is amended or otherwise~~
13 ~~extended beyond 2 years; or~~

14 ~~—(d)~~ The person is employed by the Department of
15 Transportation for a transportation project that is ~~federally~~ *entirely*
16 funded *by federal money* and the term of the contract is for more
17 than 4 years, ~~for is amended or otherwise extended beyond 4 years.~~

18 ↪ unless, before the ~~person is employed~~ *contract is executed* by
19 the agency, the ~~Interim Finance Committee~~ *State Board of*
20 *Examiners* approves the employment of the person. *The*
21 *requirements of this subsection apply to any person employed by a*
22 *business or other entity that enters into a contract to provide*
23 *services for a department, division or agency of this State if the*
24 *person will be performing or producing the services for which the*
25 *business or entity is employed.*

26 2. The provisions of paragraph (b) of subsection 1 apply to
27 employment through a temporary employment service. A temporary
28 employment service providing employees for a state agency shall
29 provide the agency with the names of the employees to be provided
30 to the agency. The ~~Interim Finance Committee~~ *State Board of*
31 *Examiners* shall not approve ~~the employment of a consultant~~ *a*
32 *contract* pursuant to paragraph (b) of subsection 1 unless the
33 ~~Interim Finance Committee~~ *Board* determines that one or more of
34 the following circumstances exist:

35 (a) The person provides services that are not provided by any
36 other employee of the agency or for which a critical labor shortage
37 exists; or



1 (b) A short-term need or unusual economic circumstance exists
2 for the agency to ~~employ~~ *contract with* the person . ~~[as a~~
3 ~~consultant.]~~

4 3. A department, division or other agency of this State may
5 ~~employ~~ *contract with* a person pursuant to paragraph (a) or (b) of
6 subsection 1 without obtaining the approval of the ~~[Interim Finance~~
7 ~~Committee]~~ *State Board of Examiners* if the term of ~~employment~~
8 ~~the contract~~ is for less than 4 months and the executive head of the
9 department, division or agency determines that an emergency exists
10 which necessitates the ~~employment.] contract~~. If a department,
11 division or agency ~~employs~~ *contracts with* a person pursuant to
12 this subsection, the department, division or agency shall ~~[include in~~
13 ~~the report to the Interim Finance Committee pursuant to subsection~~
14 ~~4]~~ *submit a copy of the contract and* a description of the emergency
15 ~~[.]~~ *to the State Board of Examiners, which shall review the*
16 *contract and the description of the emergency and notify the*
17 *department, division or agency whether the State Board of*
18 *Examiners would have approved the contract if it had not been*
19 *entered into pursuant to this subsection.*

20 4. Except as otherwise provided in subsection ~~[7.]~~ *9*, a
21 department, division or other agency of this State shall , *not later*
22 *than 10 days after the end of each fiscal quarter*, report to the
23 Interim Finance Committee ~~[whenever it employs, by contract or~~
24 ~~otherwise.] concerning all contracts [a person]~~ to provide services
25 ~~[as a consultant]~~ for the agency *that were entered into by the*
26 *agency during the fiscal quarter with a person* who is a *current or*
27 *former employee of a department, division or other agency of this*
28 *State.*

29 5. Except as otherwise provided in subsection ~~[7.]~~ *9*, a
30 department, division or other agency of this State shall not contract
31 with a temporary employment service unless the contracting process
32 is controlled by rules of open competitive bidding.

33 6. Each board or commission of this State ~~[each school~~
34 ~~district in this State]~~ and each institution of the Nevada System of
35 Higher Education that employs a consultant shall, at least once
36 every 6 months, submit to the Interim Finance Committee a report
37 setting forth:

38 (a) The number of consultants employed by the board,
39 commission ~~[school district]~~ or institution;

40 (b) The purpose for which the board, commission ~~[school~~
41 ~~district]~~ or institution employs each consultant;

42 (c) The amount of money or other remuneration received by
43 each consultant from the board, commission ~~[school district]~~ or
44 institution; and



1 (d) The length of time each consultant has been employed by the
2 board, commission [~~school district~~] or institution.

3 7. *A department, division or other agency of this State,*
4 *including a board or commission of this State and each institution*
5 *of the Nevada System of Higher Education:*

6 (a) *Shall make every effort to limit the number of contracts it*
7 *enters into with persons to provide services which have a term of*
8 *more than 2 years and which are in the amount of less than \$1*
9 *million; and*

10 (b) *Shall not enter into a contract with a person to provide*
11 *services without ensuring that the person is in active and good*
12 *standing with the Secretary of State.*

13 8. *The provisions of chapter 333 of NRS that are not in*
14 *conflict or otherwise inconsistent with this section apply to a*
15 *contract entered into pursuant to this section.*

16 9. The provisions of subsections 1 to 5, inclusive, do not apply
17 to : ~~{the:}~~

18 (a) *The Nevada System of Higher Education or a board or*
19 *commission of this State.*

20 (b) ~~{Employment}~~ *The employment* of professional engineers by
21 the Department of Transportation if those engineers are employed
22 for a transportation project that is ~~{federally funded.~~

23 ~~8. For the purposes of this section, "consultant" includes any~~
24 ~~person employed by a business or other entity that is providing~~
25 ~~consulting services if the person will be performing or producing the~~
26 ~~work for which the business or entity is employed.]~~ *entirely funded*
27 *by federal money.*

28 (c) *Contracts in the amount of \$1 million or more entered into:*

29 (1) *Pursuant to the State Plan for Medicaid established*
30 *pursuant to NRS 422.271.*

31 (2) *For financial services.*

32 (3) *Pursuant to the Public Employees' Benefits Program.*

33 (d) *The employment of a person by a business or entity which*
34 *is a provider of services under the State Plan for Medicaid and*
35 *which provides such services on a fee-for-service basis or through*
36 *managed care.*

37 **Sec. 2.** NRS 353.210 is hereby amended to read as follows:

38 353.210 1. Except as otherwise provided in subsection 6, on
39 or before September 1 of each even-numbered year, all departments,
40 institutions and other agencies of the Executive Department of the
41 State Government, and all agencies of the Executive Department of
42 the State Government receiving state money, fees or other money
43 under the authority of the State, including those operating on money
44 designated for specific purposes by the Nevada Constitution or



1 otherwise, shall prepare, on blanks furnished them by the Chief, and
2 submit to the Chief:

3 (a) The number of positions within the department, institution or
4 agency that have been vacant for at least 12 months, the number of
5 months each such position has been vacant and the reasons for each
6 such vacancy;

7 (b) Any existing contracts *for services* the department,
8 institution or agency has with ~~{consultants or}~~ temporary
9 employment services ~~{}~~ *or other persons*, the proposed
10 expenditures for such contracts in the next 2 fiscal years and the
11 reasons for the use of such ~~{consultants or}~~ services; and

12 (c) Estimates of their expenditure requirements, together with all
13 anticipated income from fees and all other sources, for the next 2
14 fiscal years compared with the corresponding figures of the last
15 completed fiscal year and the estimated figures for the current fiscal
16 year.

17 2. The Chief shall direct that one copy of the forms submitted
18 pursuant to subsection 1, accompanied by every supporting schedule
19 and any other related material, be delivered directly to the Fiscal
20 Analysis Division of the Legislative Counsel Bureau on or before
21 September 1 of each even-numbered year.

22 3. The Budget Division of the Department of Administration
23 shall give advance notice to the Fiscal Analysis Division of the
24 Legislative Counsel Bureau of any conference between the Budget
25 Division of the Department of Administration and personnel of
26 other state agencies regarding budget estimates. A Fiscal Analyst of
27 the Legislative Counsel Bureau or his or her designated
28 representative may attend any such conference.

29 4. The estimates of expenditure requirements submitted
30 pursuant to subsection 1 must be classified to set forth the data of
31 funds, organizational units, and the character and objects of
32 expenditures, and must include a mission statement and
33 measurement indicators for each program. The organizational units
34 may be subclassified by functions and activities, or in any other
35 manner at the discretion of the Chief.

36 5. If any department, institution or other agency of the
37 Executive Department of the State Government, whether its money
38 is derived from state money or from other money collected under
39 the authority of the State, fails or neglects to submit estimates of its
40 expenditure requirements as provided in this section, the Chief may,
41 from any data at hand in the Chief's office or which the Chief may
42 examine or obtain elsewhere, make and enter a proposed budget for
43 the department, institution or agency in accordance with the data.

44 6. Agencies, bureaus, commissions and officers of the
45 Legislative Department, the Public Employees' Retirement System



1 and the Judicial Department of the State Government shall submit to
2 the Chief for his or her information in preparing the proposed
3 executive budget the budgets which they propose to submit to the
4 Legislature.

5 **Sec. 3.** Chapter 391 of NRS is hereby amended by adding
6 thereto a new section to read as follows:

7 *Each school district in this State that employs a consultant*
8 *shall, at least once every 6 months, submit to the Interim Finance*
9 *Committee a report setting forth:*

- 10 1. *The number of consultants employed by the school district;*
- 11 2. *The purpose for which the school district employs each*
12 *consultant;*
- 13 3. *The amount of money or other remuneration received by*
14 *each consultant from the school district; and*
- 15 4. *The length of time each consultant has been employed by*
16 *the school district.*

17 **Sec. 3.5.** Each department, division or other agency of this
18 State, including a board or commission of this State and each
19 institution of the Nevada System of Higher Education, shall, on or
20 before February 1, 2013, submit to the Director of the Legislative
21 Counsel Bureau for transmittal to the 77th Session of the Legislature
22 a report that:

- 23 1. Lists each contract the department, division or agency has
24 entered into with persons to provide services which has a term of
25 more than 2 years and which is in the amount of less than \$1
26 million; and
- 27 2. Sets forth a description of the necessity of entering into each
28 contract, including, without limitation, the necessity of the contract
29 having a term of more than 2 years.

30 **Sec. 4.** This act becomes effective on July 1, 2011.

