

ASSEMBLY BILL NO. 45—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE DIVISION OF
STATE LIBRARY AND ARCHIVES)

PREFILED DECEMBER 20, 2012

Referred to Committee on Government Affairs

SUMMARY—Revises various provisions relating to the
Department of Administration. (BDR 33-306)

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

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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 the Department of Administration; revising provisions governing the duties of the Division of State Library and Archives of the Department of Administration; eliminating the Repository for Records Concerning Programs, Activities and Events Related to the Participation of Citizens in the Development of Public Policy and the Improvement of the Operation of Government; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

- 1 Existing law sets forth a list of specific items that the State Library and
- 2 Archives Administrator is required to keep custody of and preserve. (NRS 378.245)
- 3 **Section 1** of this bill eliminates the description of the State Seal and other such
- 4 seals and expired official bonds approved by the Governor from the list.
- 5 Existing law allows the Administrator to inspect the physical nature of
- 6 governmental records in the custody of a state or local governmental agency that
- 7 are not confidential or privileged. (NRS 378.255) **Section 2** of this bill expands the
- 8 inspection authority of the Administrator to include confidential or privileged
- 9 information in records in the custody of state or local governmental agencies and
- 10 prohibits the Administrator from disclosing any such confidential or privileged
- 11 information.
- 12 Under existing law, the Division of State Library and Archives of the
- 13 Department of Administration is required to provide microfilming services to state
- 14 agencies and local governments. (NRS 239.070, 378.280) **Sections 3 and 7** of this



15 bill require the Division to also provide digital imaging services to those
16 governmental entities. **Section 2** of this bill authorizes the Division to provide
17 microfilming and digital imaging services for the records of the Legislative and
18 Judicial Branches of State Government, upon request.

19 **Section 10** of this bill eliminates the authority of the Administrator to enter into
20 an agreement with the Secretary of State to keep and preserve material for the
21 Secretary of State. (NRS 378.260) **Section 10** also eliminates certain fees that are
22 duplicative of fees that a governmental entity is generally authorized to charge.
23 (NRS 239.052, 239.055) Finally, **section 10** eliminates the Repository for Records
24 Concerning Programs, Activities and Events Related to the Participation of Citizens
25 in the Development of Public Policy and the Improvement of the Operation of
26 Government, which was created to store and maintain information submitted
27 concerning ways to increase citizen participation in government. (NRS 378.400)
28 **Sections 4-6, 8 and 9** of this bill make conforming changes relating to the
29 elimination of the Repository, including requiring that documents and information
30 currently submitted to the Repository be sent to the Division of State Library and
31 Archives.

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

- 1 **Section 1.** NRS 378.245 is hereby amended to read as follows:
2 378.245 1. The State Library and Archives Administrator has
3 custody of and shall carefully preserve in the Division:
4 (a) The enrolled copy of the Constitution of the State of Nevada.
5 (b) ~~[(The description of the State Seal and other seals of which a~~
6 ~~description may be required to be deposited in the Division.~~
7 ~~—(c)]~~ The proceedings and all papers of the two Constitutional
8 Conventions held for the purpose of framing a Constitution of this
9 State.
10 ~~[(d)]~~ (c) The manuscripts containing the enrolled acts and joint
11 resolutions and journals of the Legislature of this State and the
12 Territory of Nevada.
13 ~~[(e)]~~ (d) The records, papers and documents of Carson County,
14 Utah Territory, and all other books, records and documents which,
15 by the laws of the Territory of Nevada, were required to be
16 deposited and kept in the office of the Secretary of the Territory of
17 Nevada.
18 ~~[(f)]~~ (e) All the books, records, parchments, maps, registers,
19 papers and other material required to be deposited or kept in the
20 Division.
21 ~~[(g) All expired official bonds approved by the Governor.]~~
22 2. The State Library and Archives Administrator shall not
23 permit the original papers and other material to be taken out of the
24 archives unless he or she determines that the circumstances ensure
25 the safety and integrity of the papers and other material.



1 **Sec. 2.** NRS 378.255 is hereby amended to read as follows:

2 378.255 The State Library and Archives Administrator may:

3 1. Adopt regulations and establish standards, procedures and
4 techniques for the effective management of records.

5 2. Make continuing surveys of current practices for the
6 management of records and recommend improvements in those
7 practices, including the use of space, equipment and supplies to
8 create, maintain and store records.

9 3. Establish standards for the preparation of schedules
10 providing for the retention of state records of continuing value and
11 for the prompt and orderly disposition of state records which no
12 longer possess sufficient administrative, fiscal, legal or research
13 value to warrant their further retention.

14 4. Establish, maintain and operate a center for storing and
15 retrieving records for state agencies pending the acceptance of the
16 records by the Division or the disposition of the records in any other
17 manner prescribed by law.

18 5. Establish a program for ~~the control and management of~~
19 ~~forms, files, reports, directives and correspondence.~~ *providing*
20 *microfilming and digital imaging services for the records of the*
21 *Legislative and Judicial Branches of State Government, upon*
22 *request.*

23 6. Establish a program of planning and preparation to assist
24 state agencies and local governments in providing protection for
25 records essential for the continuation or re-establishment of
26 government in the event of a disaster.

27 7. Provide advice and technical assistance to state agencies,
28 local governmental ~~entities~~ *agencies* and, if requested, the
29 Legislative and Judicial Branches of State Government concerning
30 any aspect of managing records.

31 8. Through the Division, inspect the physical nature of
32 governmental records in the custody of a state or local governmental
33 agency , *including, without limitation, information in*
34 *governmental records* which ~~are not~~ *is* confidential or privileged.
35 *The Administrator shall not disclose any confidential or privileged*
36 *information in governmental records inspected pursuant to this*
37 *subsection, and such inspection does not alter, affect, abrogate or*
38 *waive the confidential or privileged status of the information.*

39 9. With the approval of the Committee to Approve Schedules
40 for the Retention and Disposition of Official State Records created
41 pursuant to NRS 239.073, bring an action to obtain possession of
42 the records of a state or local governmental agency which are:

43 (a) Of historical value and are not being properly cared for; or

44 (b) Privately held.



1 ↳ In an action to recover a record which is privately held, it is
2 rebuttably presumed that a governmental record which appears to be
3 the original of a document received or the file copy of a document
4 made by a governmental agency is governmental property.

5 **Sec. 3.** NRS 378.280 is hereby amended to read as follows:

6 378.280 1. Except as otherwise provided in subsection 2, the
7 State Library and Archives Administrator shall establish and
8 administer a program for the efficient and economical creation, use,
9 maintenance, retention, preservation, **including, without limitation,**
10 **microfilming and digital imaging,** and disposition of the records of
11 the Executive Branch of the Government of the State of Nevada.

12 2. The Director of the Department of Transportation may
13 establish a program for the management of the Department's
14 records, if the Director confers with the State Library and Archives
15 Administrator regarding the program. The program must incorporate
16 generally accepted practices for managing records.

17 **Sec. 4.** NRS 225.200 is hereby amended to read as follows:

18 225.200 As used in NRS 225.200 to 225.270, inclusive, unless
19 the context otherwise requires, the words and terms defined in NRS
20 225.210 ~~{H}~~ and 225.220 ~~{and 225.230}~~ have the meanings ascribed
21 to them in those sections.

22 **Sec. 5.** NRS 225.250 is hereby amended to read as follows:

23 225.250 1. The Advisory Committee shall:

24 ~~{a} Advise the Director of the Department of Administration~~
25 ~~concerning the Repository and make recommendations to support~~
26 ~~greater use of the Repository and collection of materials for the~~
27 ~~Repository;~~

28 ~~{b}~~ Assist the Secretary of State in identifying and proposing
29 programs that support participatory democracy and solutions to any
30 problem concerning the level of participatory democracy, including,
31 without limitation, proposing methods to involve the news media in
32 the process of addressing and proposing solutions to such a
33 problem;

34 ~~{c}~~ **(b)** Make recommendations to and discuss
35 recommendations with the Secretary of State concerning matters
36 brought to the attention of the Advisory Committee that relate to a
37 program, activity, event or any combination thereof designed to
38 increase or facilitate participatory democracy, including, without
39 limitation, the interaction of citizens with governing bodies in the
40 formulation and implementation of public policy;

41 ~~{d}~~ **(c)** Establish a "Jean Ford Democracy Award" to honor
42 citizens who perform exemplary service in promoting participatory
43 democracy in this State;

44 ~~{e}~~ **(d)** Support projects by national, state and local entities
45 that encourage and advance participatory democracy, including



1 programs established by the National Conference of State
2 Legislatures, the State Bar of Nevada, and other public and private
3 organizations; and

4 ~~(f)~~ (e) Advise the Secretary of State and the Governor
5 concerning the substance of any proclamation issued by the
6 Governor pursuant to NRS 236.035.

7 2. The Advisory Committee may establish a panel to assist the
8 Advisory Committee in carrying out its duties and responsibilities.
9 The panel may consist of:

10 (a) Representatives of organizations, associations, groups or
11 other entities committed to improving participatory democracy in
12 this State, including, without limitation, representatives of
13 committees that are led by youths and established to improve the
14 teaching of the principles of participatory democracy in the schools,
15 colleges and universities of this State; and

16 (b) Any other interested persons with relevant knowledge.

17 **Sec. 6.** NRS 236.035 is hereby amended to read as follows:

18 236.035 1. The Governor may annually proclaim the third
19 week in September to be "Constitution Week" and September 17 to
20 be "Constitution Day" to commemorate the historical contributions
21 that the United States Constitution has made to citizens and its
22 significance in preserving the individual freedoms, liberties and
23 common welfare of the people who live in the United States of
24 America.

25 2. The proclamation may:

26 (a) Call upon the news media, educators, state and local officers,
27 professional, business and labor leaders, and others in positions of
28 authority or influence to bring to the attention of the citizens of this
29 State the importance of the United States Constitution in shaping
30 and articulating the basic values that underlie the unique character
31 of American civilization and culture, based on the belief that
32 sovereignty emanates from the people who comprise a society and
33 that governmental authority is based upon the consent of the
34 governed;

35 (b) Encourage elected and appointed officers and employees at
36 all levels of government and in all public and educational
37 institutions to develop new programs and new ideas by which the
38 citizens of this State and nation can:

39 (1) Better understand and improve the effectiveness of all
40 branches of government established within the American
41 constitutional system; and

42 (2) Increase the extent and quality of their participation in the
43 development of public policy and the improvement of the operation
44 of government at all levels;



1 (c) Encourage citizens of this State to assist elected and
2 appointed officers and employees at all levels of government, and in
3 all public and educational institutions, to develop new programs and
4 new ideas to increase the extent and quality of the participation of
5 the citizens of this State in the development of public policy and the
6 improvement of the operation of government at all levels;

7 (d) Direct interested citizens and appropriate officers and
8 agencies to develop recommendations by which federal, state and
9 local policies for the preservation of historical records can be
10 formulated and put into effect, so that the cultural and informational
11 resources that are essential to a constitutional form of government
12 are preserved and made accessible to present and future generations
13 of citizens;

14 (e) Remind all citizens that the preservation of the American
15 constitutional form of government, and the freedom and liberty
16 guaranteed by the United States Constitution, are based upon the
17 responsibility of each citizen to uphold and defend the Constitution;
18 and

19 (f) Request all citizens to submit any information they may have
20 concerning a program, activity, event, proposal or any other action
21 to increase the extent and quality of participation of citizens in the:

22 (1) Development of public policy; and

23 (2) Improvement of the operation of government at all levels,

24 → to the ~~repositary created pursuant to NRS 378.400.~~ *Division of*
25 *State Library and Archives of the Department of Administration.*

26 **Sec. 7.** NRS 239.070 is hereby amended to read as follows:

27 239.070 1. In lieu of or in addition to the method of
28 recording required or allowed by statute, the county recorder may
29 use microfilm *or digital images* for such recording.

30 2. The Division shall provide microfilming ~~service~~ *or digital*
31 *imaging services* to any local government. The charge for the
32 service must not exceed the actual cost ~~of providing the services.~~

33 3. If microfilming *or digital imaging* is used:

34 (a) The microphotographs, ~~or~~ *micronegative films or digital*
35 *images* must be properly indexed and placed in conveniently
36 accessible files.

37 (b) Each film *or digital image* must be designated and
38 numbered.

39 (c) Provision must be made for preserving, examining and using
40 the films ~~or~~ *or digital images.*

41 4. A duplicate of each such film *or digital image* must be made
42 and kept safely in a separate place.

43 5. Duplicates of each such film *or digital image* must be made
44 available by the county recorder for sale at a price not exceeding
45 cost upon the request of any person, firm or organization. Subject to



1 the approval of the board of county commissioners, the county
2 recorder may, at any time, make additional duplicates of each such
3 film *or digital image* available for sale to the public at a price not
4 exceeding cost.

5 6. The Division shall provide services for recording other than
6 microfilming *or digital imaging* to any local government if the
7 Division has the equipment necessary to provide the services. The
8 services provided are subject to the requirements of this section
9 relating to microfilming ~~H~~ *or digital imaging*.

10 **Sec. 8.** NRS 244.1615 is hereby amended to read as follows:

11 244.1615 A board of county commissioners may institute a
12 program or sponsor an activity, event or any other action designed
13 to increase the extent and quality of participation of the residents of
14 the county in the development of public policy and the improvement
15 of the operation of government at all levels. The board may submit a
16 report of any action taken pursuant to this section to the ~~repository~~
17 ~~created pursuant to NRS 378.400.~~ *Division of State Library and*
18 *Archives of the Department of Administration.*

19 **Sec. 9.** NRS 268.920 is hereby amended to read as follows:

20 268.920 The city council or other governing body of an
21 incorporated city may institute a program or sponsor an activity,
22 event or any other action designed to increase the extent and quality
23 of participation of the residents within the incorporated city in the
24 development of public policy and the improvement of the operation
25 of government at all levels. The city council or other governing
26 body of an incorporated city may submit a report of any action taken
27 pursuant to this section to the ~~repository created pursuant to NRS~~
28 ~~378.400.~~ *Division of State Library and Archives of the*
29 *Department of Administration.*

30 **Sec. 10.** NRS 225.230, 378.120, 378.260 and 378.400 are
31 hereby repealed.

32 **Sec. 11.** This act becomes effective upon passage and
33 approval.

LEADLINES OF REPEALED SECTIONS

225.230 "Repository" defined.

378.120 Charges for copy of papers and documents and
duplicate of roll of microfilm.

378.260 Agreement to maintain material of Secretary of
State in archives.



**378.400 Creation; contents; powers and duties of Director;
Advisory Committee.**

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