

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 authority of the Administrator to inspect information in records in the custody of
- 9 state or local governmental agencies and to inspect the physical nature of and
- 10 information contained in such records that are confidential or privileged under
- 11 certain circumstances. **Section 2** also requires an inspection of confidential or
- 12 privileged records to be logged and prohibits the Administrator from disclosing any
- 13 such confidential or privileged information.



14 Under existing law, the Division of State Library and Archives of the
15 Department of Administration is required to provide microfilming services to state
16 agencies and local governments. (NRS 239.070, 378.280) **Sections 3 and 7** of this
17 bill require the Division to also provide digital imaging services to those
18 governmental entities. **Section 2** of this bill authorizes the Division to provide
19 microfilming and digital imaging services for the records of the Legislative and
20 Judicial Branches of State Government, upon request.

21 **Section 10** of this bill eliminates the authority of the Administrator to enter into
22 an agreement with the Secretary of State to keep and preserve material for the
23 Secretary of State. (NRS 378.260) **Section 10** also eliminates certain fees that are
24 duplicative of fees that a governmental entity is generally authorized to charge.
25 (NRS 239.052, 239.055) Finally, **section 10** eliminates the Repository for Records
26 Concerning Programs, Activities and Events Related to the Participation of Citizens
27 in the Development of Public Policy and the Improvement of the Operation of
28 Government, which was created to store and maintain information submitted
29 concerning ways to increase citizen participation in government. (NRS 378.400)
30 **Sections 4-6, 8 and 9** of this bill make conforming changes relating to the
31 elimination of the Repository, including requiring that documents and information
32 currently submitted to the Repository be sent to the Division of State Library and
33 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



1 archives unless he or she determines that the circumstances ensure
2 the safety and integrity of the papers and other material.

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

4 378.255 The State Library and Archives Administrator may:

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

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

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

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

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

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

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

33 8. Through the Division, inspect the physical nature of , *and*
34 *information contained in*, governmental records in the custody of a
35 state or local governmental agency which are not confidential or
36 privileged.

37 9. *Through the Division, inspect the physical nature of, and*
38 *information contained in, confidential or privileged governmental*
39 *records in the custody of a state or local governmental agency if*
40 *the inspection is necessary to carry out the provisions of*
41 *subsection 3, 5, 6 or 7 and if the inspection is not prohibited by*
42 *any federal law or regulation. Inspections must be logged as*
43 *required pursuant to NRS 239C.230. The Division shall not*
44 *disclose any confidential or privileged information in*
45 *governmental records inspected pursuant to this subsection, and*



1 *such inspection does not alter, affect, abrogate or waive the*
2 *confidential or privileged status of the information.*

3 **10.** With the approval of the Committee to Approve Schedules
4 for the Retention and Disposition of Official State Records created
5 pursuant to NRS 239.073, bring an action to obtain possession of
6 the records of a state or local governmental agency which are:

- 7 (a) Of historical value and are not being properly cared for; or
8 (b) Privately held.

9 ➔ In an action to recover a record which is privately held, it is
10 rebuttably presumed that a governmental record which appears to be
11 the original of a document received or the file copy of a document
12 made by a governmental agency is governmental property.

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

14 378.280 1. Except as otherwise provided in subsection 2, the
15 State Library and Archives Administrator shall establish and
16 administer a program for the efficient and economical creation, use,
17 maintenance, retention, preservation, *including, without limitation,*
18 *microfilming and digital imaging,* and disposition of the records of
19 the Executive Branch of the Government of the State of Nevada.

20 2. The Director of the Department of Transportation may
21 establish a program for the management of the Department's
22 records, if the Director confers with the State Library and Archives
23 Administrator regarding the program. The program must incorporate
24 generally accepted practices for managing records.

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

26 225.200 As used in NRS 225.200 to 225.270, inclusive, unless
27 the context otherwise requires, the words and terms defined in NRS
28 225.210 ~~(f)~~ and 225.220 ~~(and 225.230)~~ have the meanings ascribed
29 to them in those sections.

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

31 225.250 1. The Advisory Committee shall:

32 (a) ~~(a) Advise the Director of the Department of Administration~~
33 ~~concerning the Repository and make recommendations to support~~
34 ~~greater use of the Repository and collection of materials for the~~
35 ~~Repository;~~

36 ~~—(b)~~ Assist the Secretary of State in identifying and proposing
37 programs that support participatory democracy and solutions to any
38 problem concerning the level of participatory democracy, including,
39 without limitation, proposing methods to involve the news media in
40 the process of addressing and proposing solutions to such a
41 problem;

42 ~~(c)~~ (b) Make recommendations to and discuss
43 recommendations with the Secretary of State concerning matters
44 brought to the attention of the Advisory Committee that relate to a
45 program, activity, event or any combination thereof designed to



1 increase or facilitate participatory democracy, including, without
2 limitation, the interaction of citizens with governing bodies in the
3 formulation and implementation of public policy;

4 ~~(d)~~ (c) Establish a “Jean Ford Democracy Award” to honor
5 citizens who perform exemplary service in promoting participatory
6 democracy in this State;

7 ~~(e)~~ (d) Support projects by national, state and local entities
8 that encourage and advance participatory democracy, including
9 programs established by the National Conference of State
10 Legislatures, the State Bar of Nevada, and other public and private
11 organizations; and

12 ~~(f)~~ (e) Advise the Secretary of State and the Governor
13 concerning the substance of any proclamation issued by the
14 Governor pursuant to NRS 236.035.

15 2. The Advisory Committee may establish a panel to assist the
16 Advisory Committee in carrying out its duties and responsibilities.
17 The panel may consist of:

18 (a) Representatives of organizations, associations, groups or
19 other entities committed to improving participatory democracy in
20 this State, including, without limitation, representatives of
21 committees that are led by youths and established to improve the
22 teaching of the principles of participatory democracy in the schools,
23 colleges and universities of this State; and

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

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

26 236.035 1. The Governor may annually proclaim the third
27 week in September to be “Constitution Week” and September 17 to
28 be “Constitution Day” to commemorate the historical contributions
29 that the United States Constitution has made to citizens and its
30 significance in preserving the individual freedoms, liberties and
31 common welfare of the people who live in the United States of
32 America.

33 2. The proclamation may:

34 (a) Call upon the news media, educators, state and local officers,
35 professional, business and labor leaders, and others in positions of
36 authority or influence to bring to the attention of the citizens of this
37 State the importance of the United States Constitution in shaping
38 and articulating the basic values that underlie the unique character
39 of American civilization and culture, based on the belief that
40 sovereignty emanates from the people who comprise a society and
41 that governmental authority is based upon the consent of the
42 governed;

43 (b) Encourage elected and appointed officers and employees at
44 all levels of government and in all public and educational



1 institutions to develop new programs and new ideas by which the
2 citizens of this State and nation can:

3 (1) Better understand and improve the effectiveness of all
4 branches of government established within the American
5 constitutional system; and

6 (2) Increase the extent and quality of their participation in the
7 development of public policy and the improvement of the operation
8 of government at all levels;

9 (c) Encourage citizens of this State to assist elected and
10 appointed officers and employees at all levels of government, and in
11 all public and educational institutions, to develop new programs and
12 new ideas to increase the extent and quality of the participation of
13 the citizens of this State in the development of public policy and the
14 improvement of the operation of government at all levels;

15 (d) Direct interested citizens and appropriate officers and
16 agencies to develop recommendations by which federal, state and
17 local policies for the preservation of historical records can be
18 formulated and put into effect, so that the cultural and informational
19 resources that are essential to a constitutional form of government
20 are preserved and made accessible to present and future generations
21 of citizens;

22 (e) Remind all citizens that the preservation of the American
23 constitutional form of government, and the freedom and liberty
24 guaranteed by the United States Constitution, are based upon the
25 responsibility of each citizen to uphold and defend the Constitution;
26 and

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

30 (1) Development of public policy; and

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

32 ~~to the repository created pursuant to NRS 378.400.~~ *Division of*
33 *State Library and Archives of the Department of Administration.*

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

35 239.070 1. In lieu of or in addition to the method of
36 recording required or allowed by statute, the county recorder may
37 use microfilm *or digital images* for such recording.

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

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

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



1 (b) Each film *or digital image* must be designated and
2 numbered.

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

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

7 5. Duplicates of each such film *or digital image* must be made
8 available by the county recorder for sale at a price not exceeding
9 cost upon the request of any person, firm or organization. Subject to
10 the approval of the board of county commissioners, the county
11 recorder may, at any time, make additional duplicates of each such
12 film *or digital image* available for sale to the public at a price not
13 exceeding cost.

14 6. The Division shall provide services for recording other than
15 microfilming *or digital imaging* to any local government if the
16 Division has the equipment necessary to provide the services. The
17 services provided are subject to the requirements of this section
18 relating to microfilming ~~+~~ *or digital imaging*.

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

20 244.1615 A board of county commissioners may institute a
21 program or sponsor an activity, event or any other action designed
22 to increase the extent and quality of participation of the residents of
23 the county in the development of public policy and the improvement
24 of the operation of government at all levels. The board may submit a
25 report of any action taken pursuant to this section to the ~~+~~ *repository*
26 ~~created pursuant to NRS 378.400.~~ *Division of State Library and*
27 *Archives of the Department of Administration.*

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

29 268.920 The city council or other governing body of an
30 incorporated city may institute a program or sponsor an activity,
31 event or any other action designed to increase the extent and quality
32 of participation of the residents within the incorporated city in the
33 development of public policy and the improvement of the operation
34 of government at all levels. The city council or other governing
35 body of an incorporated city may submit a report of any action taken
36 pursuant to this section to the ~~+~~ *repository created pursuant to NRS*
37 ~~378.400.~~ *Division of State Library and Archives of the*
38 *Department of Administration.*

39 **Sec. 10.** NRS 225.230, 378.120, 378.260 and 378.400 are
40 hereby repealed.



1 **Sec. 11.** This act becomes effective upon passage and
2 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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