

ASSEMBLY BILL NO. 436—ASSEMBLYMEN MONROE-MORENO,
NEAL, SPIEGEL, BUSTAMANTE ADAMS, CARRILLO; AND
FRIERSON

MARCH 27, 2017

Referred to Committee on Taxation

SUMMARY—Revises provisions governing small business loans.
(BDR 18-1079)

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 economic development; requiring the Office of Economic Development to provide businesses certified as a local emerging small business with information concerning certain public and private programs to obtain financing for small businesses; revising provisions governing an application for the issuance or renewal of a state business registration; requiring the Secretary of State to provide to certain businesses information concerning certain public and private programs to obtain financing for small businesses and the process for obtaining certification as a disadvantaged business enterprise; requiring the Regional Business Development Advisory Council for Clark County to provide to certain businesses information concerning certain public and private programs to obtain financing for small businesses; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law: (1) provides for the certification of eligible local emerging small
2 businesses by the Office of Economic Development; and (2) requires the Office to
3 establish an outreach program for local emerging small businesses to connect those
4 businesses with state agencies seeking state purchasing contracts and contracts for
5 public works of this State and goals concerning the participation of local emerging
6 small businesses in those contracts. (NRS 231.1405, 231.14065, 231.1407) **Section**
7 **1** of this bill requires the Office to provide a business certified as an eligible local
8 emerging small business with certain information concerning public and private



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9 programs to provide financing to small businesses and the criteria for obtaining
10 financing through such programs.

11 Existing law requires a person to obtain a state business registration and pay an
12 annual fee before conducting business within this State, unless exempted from the
13 business registration requirement. (NRS 76.100, 76.130) **Sections 2 and 4** of this
14 bill clarify that a person may obtain or renew a state business registration by
15 submitting a written application or applying through the state business portal
16 established by the Secretary of State. **Sections 2 and 4** also require the Secretary of
17 State, upon the issuance or renewal of a state business registration, to provide to the
18 business certain information concerning public and private programs to provide
19 financing to small businesses and the criteria for obtaining financing through such
20 programs. Finally, **sections 2 and 4** also require the Secretary of State to include on
21 the form for an application for the issuance or renewal of a state business
22 registration an opportunity for the applicant to indicate whether the applicant's
23 business is a minority-owned business, a woman-owned business or a veteran-
24 owned business. If the applicant indicates that the business is a minority-owned
25 business or a woman-owned business, **sections 2 and 4** require the Secretary of
26 State to provide information concerning how the person may become certified as a
27 disadvantaged business enterprise for certain purposes related to contracting for
28 transportation projects and qualifying for loans to disadvantaged business
29 enterprises.

30 Existing law creates the Regional Business Development Advisory Council for
31 Clark County and prescribes its duties. (Sections 15 and 20 of chapter 7, Statutes of
32 Nevada 2003, 20th Special Session, at pp. 268-69) **Section 5** of this bill requires the
33 Council to provide to local businesses owned and operated by disadvantaged
34 persons certain information concerning public and private programs to provide
35 financing to small businesses and the criteria for obtaining financing through such
36 programs.

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

1 **Section 1.** NRS 231.14055 is hereby amended to read as
2 follows:

3 231.14055 1. A business may apply, on a form prescribed by
4 regulation of the Office, to the Office for certification as a local
5 emerging small business. The application must be accompanied by
6 such proof as the Office requires to demonstrate that the applicant is
7 in compliance with the criteria set forth in NRS 231.1405 and any
8 regulations adopted pursuant to NRS 231.1408.

9 2. Upon receipt of the application and when satisfied that the
10 applicant meets the requirements set forth in this section, NRS
11 231.1405 and any regulations adopted pursuant to NRS 231.1408,
12 the Office shall ~~certify~~:

13 (a) *Certify* the business as a local emerging small business ~~H~~ ;
14 *and*

15 (b) *Provide to the business, in written or electronic form,*
16 *information concerning public and private programs to provide*
17 *financing for small businesses and the criteria for obtaining*



1 *financing through such programs. The information must include,*
2 *without limitation, information concerning:*

3 *(1) Grants or loans of money from the Catalyst Account*
4 *created by NRS 231.1573;*

5 *(2) The issuance of revenue bonds for industrial*
6 *development pursuant to NRS 349.400 to 349.670, inclusive;*

7 *(3) The Nevada Collateral Support Program pursuant to 12*
8 *U.S.C. §§ 5701 et seq.;*

9 *(4) The Nevada Microenterprise Initiative Program*
10 *pursuant to 12 U.S.C. §§ 5701 et seq.;*

11 *(5) The Nevada New Markets Jobs Act pursuant to chapter*
12 *231A of NRS;*

13 *(6) The Nevada Silver State Opportunities Fund pursuant*
14 *to NRS 355.275;*

15 *(7) Loans from the Small Business Administration*
16 *pursuant to 15 U.S.C. §§ 631 et seq.; and*

17 *(8) Any other private program to provide financing for*
18 *small businesses approved by the Office.*

19 3. The Office shall compile a list of the local emerging small
20 businesses certified pursuant to this section and post the list on its
21 Internet website.

22 **Sec. 2.** NRS 76.100 is hereby amended to read as follows:

23 76.100 1. A person shall not conduct a business in this State
24 unless and until the person obtains a state business registration
25 issued by the Secretary of State. If the person is:

26 (a) An entity required to file an initial or annual list with the
27 Secretary of State pursuant to this title, the person must obtain the
28 state business registration at the time of filing the initial or annual
29 list.

30 (b) Not an entity required to file an initial or annual list with the
31 Secretary of State pursuant to this title, the person must obtain the
32 state business registration before conducting a business in this State.

33 2. An application for a state business registration *may be*
34 *submitted in writing or through the state business portal*
35 *established pursuant to chapter 75A of NRS and* must:

36 (a) Be made upon a form prescribed by the Secretary of State ~~§~~
37 *, which must enable the applicant to declare whether the applicant*
38 *is a minority-owned business, a woman-owned business or a*
39 *veteran-owned business;*

40 (b) Set forth the name under which the applicant transacts or
41 intends to transact business, or if the applicant is an entity organized
42 pursuant to this title and on file with the Secretary of State, the exact
43 name on file with the Secretary of State, the business identification
44 number as assigned by the Secretary of State pursuant to



1 NRS 225.082, and the location in this State of the place or places of
2 business;

3 (c) Be accompanied by a fee in the amount of \$200, except that
4 if the applicant is a corporation organized pursuant to chapter 78,
5 78A or 78B of NRS, or a foreign corporation required to file
6 an initial or annual list with the Secretary of State pursuant to
7 chapter 80 of NRS, the application must be accompanied by a fee of
8 \$500; and

9 (d) Include any other information that the Secretary of State
10 deems necessary.

11 ➤ If the applicant is an entity organized pursuant to this title and on
12 file with the Secretary of State and the applicant has no location in
13 this State of its place of business, the address of its registered agent
14 shall be deemed to be the location in this State of its place of
15 business.

16 3. The application must be signed pursuant to NRS 239.330 by:

17 (a) The owner of a business that is owned by a natural person.

18 (b) A member or partner of an association or partnership.

19 (c) A general partner of a limited partnership.

20 (d) A managing partner of a limited-liability partnership.

21 (e) A manager or managing member of a limited-liability
22 company.

23 (f) An officer of a corporation or some other person specifically
24 authorized by the corporation to sign the application.

25 4. If the application for a state business registration is defective
26 in any respect or the fee required by this section is not paid, the
27 Secretary of State may return the application for correction or
28 payment.

29 5. *Upon issuance of a state business registration, the*
30 *Secretary of State shall provide to the business:*

31 (a) *Information, in written or electronic form, concerning*
32 *public and private programs to provide financing for small*
33 *businesses and the criteria for obtaining financing through such*
34 *programs. The information must include, without limitation:*

35 (1) *Grants or loans of money from the Catalyst Account*
36 *created by NRS 231.1573;*

37 (2) *The issuance of revenue bonds for industrial*
38 *development pursuant to NRS 349.400 to 349.670, inclusive;*

39 (3) *The Nevada Collateral Support Program pursuant to 12*
40 *U.S.C. §§ 5701 et seq.;*

41 (4) *The Nevada Microenterprise Initiative Program*
42 *pursuant to 12 U.S.C. §§ 5701 et seq.;*

43 (5) *The Nevada New Markets Jobs Act pursuant to chapter*
44 *231A of NRS;*



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1 ***(6) The Nevada Silver State Opportunities Fund pursuant***
2 ***to NRS 355.275;***

3 ***(7) Loans from the Small Business Administration loans***
4 ***pursuant to 15 U.S.C. § 631 et seq.; and***

5 ***(8) Any other program to provide financing for small***
6 ***businesses designated by the Secretary of State; and***

7 ***(b) If the business indicated on its application for a state***
8 ***business registration that the business is a minority-owned***
9 ***business or a woman-owned business, information, in written or***
10 ***electronic form, concerning the process by which the business may***
11 ***become certified as a disadvantaged business enterprise for the***
12 ***purposes of 49 C.F.R. § 26.5 or a program to provide financing for***
13 ***disadvantaged business enterprises.***

14 **6.** A state business registration issued pursuant to this section
15 must contain the business identification number assigned by the
16 Secretary of State pursuant to NRS 225.082.

17 ~~6.7~~ **7.** The state business registration required to be obtained
18 pursuant to this section is in addition to any license to conduct
19 business that must be obtained from the local jurisdiction in which
20 the business is being conducted.

21 ~~7.8~~ **8.** For the purposes of this chapter, a person:

22 (a) Shall be deemed to conduct a business in this State if a
23 business for which the person is responsible:

24 (1) Is organized pursuant to this title, other than a business
25 organized pursuant to:

26 (I) Chapter 82 or 84 of NRS; or

27 (II) Chapter 81 of NRS if the business is a nonprofit unit-
28 owners' association or a nonprofit religious, charitable, fraternal or
29 other organization that qualifies as a tax-exempt organization
30 pursuant to 26 U.S.C. § 501(c);

31 (2) Has an office or other base of operations in this State;

32 (3) Except as otherwise provided in NRS 76.103, has a
33 registered agent in this State; or

34 (4) Pays wages or other remuneration to a natural person
35 who performs in this State any of the duties for which he or she is
36 paid.

37 (b) Shall be deemed not to conduct a business in this State if the
38 business for which the person is responsible:

39 (1) Is not organized pursuant to this title;

40 (2) Does not have an office or base of operations in this
41 State;

42 (3) Does not have a registered agent in this State;

43 (4) Does not pay wages or other remuneration to a natural
44 person who performs in this State any of the duties for which he or
45 she is paid, other than wages or other remuneration paid to a natural



1 person for performing duties in connection with an activity
2 described in subparagraph (5); and

3 (5) Is conducting activity in this State solely to provide
4 vehicles or equipment on a short-term basis in response to a
5 wildland fire, a flood, an earthquake or another emergency.

6 ~~§ 9.~~ As used in this section ~~§ “registered”~~ :

7 (a) *“Registered agent”* has the meaning ascribed to it in
8 NRS 77.230.

9 (b) *“Veteran”* has the meaning ascribed to it in NRS 417.005.

10 (c) *“Veteran-owned business”* means a business that:

11 (1) *Is owned by a natural person who is a veteran; or*

12 (2) *Has at least 51 percent of its ownership interest held by*
13 *one or more veterans.*

14 **Sec. 3.** NRS 76.103 is hereby amended to read as follows:

15 76.103 1. A manufacturer who maintains a registered agent
16 in this State solely because of the requirements set forth in NRS
17 370.680 and who is not otherwise required to obtain a state business
18 registration pursuant to NRS 76.100 is not deemed, pursuant to
19 subparagraph (3) of paragraph (a) of subsection ~~§ 8~~ of NRS
20 76.100, to conduct a business in this State.

21 2. As used in this section, “manufacturer” has the meaning
22 ascribed to it in NRS 370.0315.

23 **Sec. 4.** NRS 76.130 is hereby amended to read as follows:

24 76.130 1. Except as otherwise provided in subsection 2, a
25 person who applies for renewal of a state business registration shall
26 submit *in writing or through the state business portal established*
27 *pursuant to chapter 75A of NRS an application on a form*
28 *prescribed by the Secretary of State, which must enable the*
29 *applicant to declare whether the applicant is a minority-owned*
30 *business, a woman-owned business or a veteran-owned business,*
31 *and* a fee in the amount of \$200 to the Secretary of State:

32 (a) If the person is an entity required to file an annual list with
33 the Secretary of State pursuant to this title, at the time the person
34 submits the annual list to the Secretary of State, unless the person
35 submits a certificate or other form evidencing the dissolution of the
36 entity; or

37 (b) If the person is not an entity required to file an annual list
38 with the Secretary of State pursuant to this title, on the last day of
39 the month in which the anniversary date of issuance of the state
40 business registration occurs in each year, unless the person submits
41 a written statement to the Secretary of State, at least 10 days before
42 that date, indicating that the person will not be conducting a
43 business in this State after that date.

44 2. If the person applying for the renewal of a state business
45 registration pursuant to subsection 1 is a corporation organized



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1 pursuant to chapter 78, 78A or 78B of NRS, or a foreign corporation
2 required to file an initial or annual list with the Secretary of State
3 pursuant to chapter 80 of NRS, the fee for the renewal of a state
4 business registration is \$500.

5 3. The Secretary of State shall, 90 days before the last day for
6 filing an application for renewal of the state business registration of
7 a person who holds a state business registration, provide to the
8 person a notice of the state business registration fee due pursuant to
9 this section and a reminder to file the application for renewal
10 required pursuant to this section. Failure of any person to receive a
11 notice does not excuse the person from the penalty imposed by law.

12 4. *Upon renewal of a state business registration, the*
13 *Secretary of State shall provide to the business:*

14 (a) *Information, in written or electronic form, concerning*
15 *public and private programs to provide financing for small*
16 *businesses and the criteria for obtaining financing through such*
17 *programs. The information must include, without limitation:*

18 (1) *Grants or loans of money from the Catalyst Account*
19 *created by NRS 231.1573;*

20 (2) *The issuance of revenue bonds for industrial*
21 *development pursuant to NRS 349.400 to 349.670, inclusive;*

22 (3) *The Nevada Collateral Support Program pursuant to 12*
23 *U.S.C. §§ 5701 et seq.;*

24 (4) *The Nevada Microenterprise Initiative Program*
25 *pursuant to 12 U.S.C. §§ 5701 et seq.;*

26 (5) *The Nevada New Markets Jobs Act pursuant to chapter*
27 *231A of NRS;*

28 (6) *The Nevada Silver State Opportunities Fund pursuant*
29 *to NRS 355.275;*

30 (7) *Loans from the Small Business Administration loans*
31 *pursuant to 15 U.S.C. § 631 et seq.; and*

32 (8) *Any other program to provide financing for small*
33 *businesses approved by the Secretary of State; and*

34 (b) *If the business indicated on its application for a state*
35 *business registration that the business is a minority-owned*
36 *business or a woman-owned business, information, in written or*
37 *electronic form, concerning the process by which the business may*
38 *become certified as a disadvantaged business enterprise for the*
39 *purposes of 49 C.F.R. § 26.5 or a program to provide financing for*
40 *disadvantaged business enterprises.*

41 5. If a person fails to submit the annual state business
42 registration fee required pursuant to this section in a timely manner
43 and the person is:

44 (a) An entity required to file an annual list with the Secretary of
45 State pursuant to this title, the person:



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1 (1) Shall pay a penalty of \$100 in addition to the annual state
2 business registration fee;

3 (2) Shall be deemed to have not complied with the
4 requirement to file an annual list with the Secretary of State; and

5 (3) Is subject to all applicable provisions relating to the
6 failure to file an annual list, including, without limitation, the
7 provisions governing default and revocation of its charter or right to
8 transact business in this State, except that the person is required to
9 pay the penalty set forth in subparagraph (1).

10 (b) Not an entity required to file an annual list with the Secretary
11 of State, the person shall pay a penalty in the amount of \$100 in
12 addition to the annual state business registration fee. The Secretary
13 of State shall provide to the person a written notice that:

14 (1) Must include a statement indicating the amount of the
15 fees and penalties required pursuant to this section and the costs
16 remaining unpaid.

17 (2) May be provided electronically, if the person has
18 requested to receive communications by electronic transmission, by
19 electronic mail or other electronic communication.

20 ~~15~~ 6. A person who continues to do business in this State
21 without renewing the person's state business registration before its
22 renewal date is subject to the fees and penalties provided for in this
23 section unless the person files a certificate of cancellation of the
24 person's state business registration with the Secretary of State.

25 ~~16~~ 7. The Secretary of State shall waive the annual state
26 business registration fee and any related penalty imposed on a
27 natural person or partnership if the natural person or partnership
28 provides evidence satisfactory to the Secretary of State that the
29 natural person or partnership conducted no business in this State
30 during the period for which the fees and penalties would be waived.

31 **8. As used in this section:**

32 (a) *"Veteran" has the meaning ascribed to it in NRS 417.005.*

33 (b) *"Veteran-owned business" means a business that:*

34 (1) *Is owned by a natural person who is a veteran; or*

35 (2) *Has at least 51 percent of its ownership interest held by*
36 *one or more veterans.*

37 **Sec. 5.** Section 20 of the Regional Business Development
38 Advisory Council for Clark County Act, being chapter 7, Statutes of
39 Nevada 2003, 20th Special Session, as amended by chapter 142,
40 Statutes of Nevada 2015, at page 550, is hereby amended to read as
41 follows:

42 Sec. 20. 1. The Council shall propose and implement
43 policies, programs and procedures to encourage and promote
44 the use of local businesses owned and operated by



1 disadvantaged persons, particularly in the area of contracting
2 and procurement by public agencies in Clark County.

3 2. On or before November 1 of each year, each public
4 entity which has a representative on the Council pursuant to
5 subsection 1 of section 15 of this act shall prepare and deliver
6 a written report to the Council for the immediately preceding
7 fiscal year which contains:

8 (a) The number of persons employed by the public entity,
9 disaggregated by major ethnic and racial categories,
10 including, without limitation, African-American, Asian,
11 Caucasian, Hispanic and Native American.

12 (b) Expenditures made by the public entity during the
13 immediately preceding fiscal year, disaggregated by
14 discretionary and nondiscretionary expenditures.

15 (c) The percentage of expenditures paid by the public
16 entity to local businesses owned and operated by
17 disadvantaged persons, disaggregated by ethnic and racial
18 categories and by gender.

19 (d) A summary of the efforts and programs used by the
20 public entity to encourage and increase the involvement in
21 contracting local businesses owned and operated by
22 disadvantaged persons and any efforts or programs used by
23 the public entity to encourage the economic development of
24 local businesses owned and operated by disadvantaged
25 persons.

26 (e) Such other information as the Council determines is
27 necessary to achieve its goals.

28 3. The Council shall encourage each public and private
29 entity which has a representative on the Council pursuant to
30 subsection 2 of section 15 of this act to prepare and deliver to
31 the Council an annual report similar to the report required
32 pursuant to subsection 2.

33 4. *The Council shall provide to local businesses owned
34 and operated by disadvantaged persons information, in
35 written or electronic form, concerning public and private
36 programs to provide financing for small businesses and the
37 criteria for obtaining financing through such programs.
38 The information must include, without limitation:*

39 (a) *Grants or loans of money from the Catalyst Account
40 created by NRS 231.1573;*

41 (b) *The issuance of revenue bonds for industrial
42 development pursuant to NRS 349.400 to 349.670, inclusive;*

43 (c) *The Nevada Collateral Support Program pursuant to
44 12 U.S.C. §§ 5701 et seq.;*



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1 (d) *The Nevada Microenterprise Initiative Program*
2 *pursuant to 12 U.S.C. §§ 5701 et seq.;*

3 (e) *The Nevada New Markets Jobs Act pursuant to*
4 *chapter 231A of NRS;*

5 (f) *The Nevada Silver State Opportunities Fund*
6 *pursuant to NRS 355.275;*

7 (g) *Loans from the Small Business Administration*
8 *pursuant to 15 U.S.C. § 631 et seq.; and*

9 (h) *Any other private lending opportunity for small*
10 *businesses with which the Council has a working*
11 *relationship.*

12 5. On or before January 15 of each odd-numbered year,
13 the Council shall prepare a report regarding the policies,
14 programs and procedures that the Council proposed and
15 implemented during the immediately preceding 2 years to
16 encourage and promote the use of local businesses owned and
17 operated by disadvantaged persons, using the reports received
18 pursuant to this section, and shall submit the report to the
19 Director of the Legislative Counsel Bureau for transmittal to
20 the next regular session of the Legislature.

21 **Sec. 6.** 1. This section and sections 1 and 5 of this act
22 become effective on July 1, 2017.

23 2. Sections 2, 3 and 4 of this act become effective on
24 January 1, 2018.

