

ASSEMBLY BILL NO. 424—ASSEMBLYMAN GEDDES (BY REQUEST)

MARCH 17, 2003

Referred to Committee on Commerce and Labor

SUMMARY—Revises provisions concerning penalty for person who contracts with state agency and fails to perform according to terms of contract. (BDR 28-959)

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 state purchasing; revising the provisions concerning certain penalties for a person who has entered into a contract with an agency of this state and who fails to perform according to the terms of the contract; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 333.365 is hereby amended to read as follows:
2 333.365 1. A person who has entered into a contract with the
3 Purchasing Division *or another agency of this state* and who does
4 not perform according to the terms of the contract is liable for, in
5 addition to any other applicable damages for breach of contract, a
6 penalty of not more than 5 percent of the total value of the bid ~~or~~ *or*
7 *contract*. The penalty must be recovered in a civil action upon the
8 complaint of the Chief in any court of competent jurisdiction. In
9 addition to recovering the penalty and any other applicable
10 damages, the Chief may ~~remove the name of the person from the~~
11 ~~list of bidders and~~ refuse to accept a bid from ~~him~~ *the person or*
12 *refuse to award a contract to the person, or both*, for not more than
13 2 years.
14 2. If the Chief does not bring an action to recover the penalty
15 prescribed by subsection 1, he may:



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- 1 (a) ~~[Remove the name of the person from the list of bidders and~~
2 ~~refuse]~~ **Refuse** to accept a bid from ~~[him]~~ **the person, refuse to**
3 **award a contract to the person, or both,** for not more than 2 years;
4 and
5 (b) Impose an administrative penalty, in an amount not to
6 exceed 5 percent of the total value of the bid ~~[.]~~ **or contract.** Such a
7 penalty may be recovered only after notice is given to the person by
8 mail.
9 3. ~~[If the Chief has removed the name of a person from the list~~
10 ~~of bidders, that person must apply to the Chief to have his name~~
11 ~~reinstated on the list of bidders.~~
12 ~~—4.]~~ A penalty imposed pursuant to subsection 1 or 2 may be
13 deducted from any payment due the person or, if a bond has been
14 issued or a check received, a claim may be made against the bond or
15 check. If no payment is due and no bond was issued or check
16 received, the Chief may issue a claim for payment of the penalty.
17 The claim must be paid within 30 days.

