

Amendment No. CA1

Conference Committee Amendment to Assembly Bill No. 463 Second Reprint	(BDR 23-1057)
Proposed by: Conference Committee	
Amends: Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) green bold dashed underlining is newly added transitory language.

KCR



Date: 5/22/2009

A.B. No. 463—Restricts a department, division or other agency of this State from employing a person as a consultant. (BDR 23-1057)



ASSEMBLY BILL NO. 463--ASSEMBLYWOMAN SMITH

MARCH 16, 2009

Referred to Committee on Government Affairs

SUMMARY—Restricts a department, division or other agency of this State from employing a person as a consultant. (BDR 23-1057)

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 governmental administration; restricting a department, division or other agency of this State from employing a person as a consultant; providing certain exceptions; requiring certain entities to submit to the Interim Finance Committee a report concerning each consultant employed by the entity; requiring that contracts with temporary employment services be awarded by open competitive bidding; requiring that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency; requiring the Legislative Auditor to conduct an audit concerning the use of contracts with consultants by state agencies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill restricts a department, division or other agency of this State from
2 employing a person as a consultant for the agency. **Section 1** requires the Interim Finance
3 Committee to approve the employment of a consultant under certain circumstances and limits
4 the approval of the employment of the person as a consultant if the person is a former
5 employee of a department, division or other agency of this State and at least 1 year has not
6 expired before the person is employed as a consultant. **Section 1** also requires each board,
7 commission, school district and institution of the Nevada System of Higher Education to
8 submit to the Interim Finance Committee, at least once every 6 months, a report concerning
9 each consultant employed by the entity. **Section 1** also requires that contracts with temporary
10 employment services be awarded by open competitive bidding. **Section 1** further provides that
11 certain exceptions apply for the employment of persons for a period of less than 4 months
12 under certain conditions and for the employment of certain persons by the Department of
13 Transportation for transportation projects that are ~~solely~~ federally funded. **Section 2.5** of this
14 bill requires that information concerning the use of consultants and temporary employment
15 services be included and explained in the budget process by a state agency. **Section 2.7** of this
16 bill requires the Legislative Auditor to conduct an audit of the use by agencies of the
17 Executive Branch of State Government of contracts with consultants.

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

1 **Section 1.** Chapter 284 of NRS is hereby amended by adding thereto a new
2 section to read as follows:

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

6 (a) *The person is a current employee of an agency of this State;*

7 (b) *The person is a former employee of an agency of this State and less than*
8 *1 year has expired since the termination of his employment with the State;*

9 (c) *Except as otherwise provided in paragraph (d), the term of the contract is*
10 *for more than 2 years, or is amended or otherwise extended beyond 2 years; or*

11 (d) *The person is employed by the Department of Transportation for a*
12 *transportation project that is ~~solely~~ federally funded and the term of the*
13 *contract is for more than 4 years, or is amended or otherwise extended beyond 4*
14 *years,*

15 *unless, before the person is employed by the agency, the Interim Finance*
16 *Committee approves the employment of the person.*

17 2. *The provisions of paragraph (b) of subsection 1 apply to employment*
18 *through a temporary employment service. A temporary employment service*
19 *providing employees for a state agency shall provide the agency with the names*
20 *of the employees to be provided to the agency. The Interim Finance Committee*
21 *shall not approve the employment of a consultant pursuant to paragraph (b) of*
22 *subsection 1 unless the Interim Finance Committee determines that one or more*
23 *of the following circumstances exist:*

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

26 (b) *A short-term need or unusual economic circumstance exists for the*
27 *agency to employ the person as a consultant.*

28 3. *A department, division or other agency of this State may employ a person*
29 *pursuant to paragraph (a) or (b) of subsection 1 without obtaining the approval*
30 *of the Interim Finance Committee if the term of employment is for less than 4*
31 *months and the executive head of the department, division or agency determines*
32 *that an emergency exists which necessitates the employment. If a department,*
33 *division or agency employs a person pursuant to this subsection, the department,*
34 *division or agency shall include in the report to the Interim Finance Committee*
35 *pursuant to subsection 4 a description of the emergency.*

36 4. *Except as otherwise provided in subsection 7, a department, division or*
37 *other agency of this State shall report to the Interim Finance Committee*
38 *whenever it employs, by contract or otherwise, a person to provide services as a*
39 *consultant for the agency who is a former employee of a department, division or*
40 *other agency of this State.*

41 5. *Except as otherwise provided in subsection 7, a department, division or*
42 *other agency of this State shall not contract with a temporary employment service*
43 *unless the contracting process is controlled by rules of open competitive bidding.*

44 6. *Each board or commission of this State, each school district in this State*
45 *and each institution of the Nevada System of Higher Education that employs a*

1 *consultant shall, at least once every 6 months, submit to the Interim Finance*
2 *Committee a report setting forth:*

3 *(a) The number of consultants employed by the board, commission, school*
4 *district or institution;*

5 *(b) The purpose for which the board, commission, school district or*
6 *institution employs each consultant;*

7 *(c) The amount of money or other remuneration received by each consultant*
8 *from the board, commission, school district or institution; and*

9 *(d) The length of time each consultant has been employed by the board,*
10 *commission, school district or institution.*

11 **7. The provisions of subsections 1 to 5, inclusive, do not apply to the:**

12 *(a) Nevada System of Higher Education or a board or commission of this*
13 *State.*

14 *(b) Employment of professional engineers by the Department of*
15 *Transportation if those engineers are employed for a transportation project that*
16 *is ~~solely~~ federally funded.*

17 **8. For the purposes of this section, “consultant” includes any person**
18 **employed by a business or other entity that is providing consulting services if the**
19 **person will be performing or producing the work for which the business or entity**
20 **is employed.**

21 **Sec. 2.** NRS 218.6827 is hereby amended to read as follows:

22 218.6827 1. Except as otherwise provided in subsection 2, the Interim
23 Finance Committee may exercise the powers conferred upon it by law only when
24 the Legislature is not in regular or special session.

25 2. During a regular or special session, the Interim Finance Committee may
26 also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2
27 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050,
28 subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142,
29 subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771,
30 inclusive, and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS
31 428.375, 439.620, 439.630, 445B.830 and 538.650 ~~+~~ **and section 1 of this act.** In
32 performing those duties, the Senate Standing Committee on Finance and the
33 Assembly Standing Committee on Ways and Means may meet separately and
34 transmit the results of their respective votes to the Chairman of the Interim Finance
35 Committee to determine the action of the Interim Finance Committee as a whole.

36 3. The Chairman of the Interim Finance Committee may appoint a
37 subcommittee consisting of six members of the Committee to review and make
38 recommendations to the Committee on matters of the State Public Works Board
39 that require prior approval of the Interim Finance Committee pursuant to subsection
40 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the
41 Chairman appoints such a subcommittee:

42 *(a) The Chairman shall designate one of the members of the subcommittee to*
43 *serve as the chairman of the subcommittee;*

44 *(b) The subcommittee shall meet throughout the year at the times and places*
45 *specified by the call of the chairman of the subcommittee; and*

46 *(c) The Director of the Legislative Counsel Bureau or his designee shall act as*
47 *the nonvoting recording secretary of the subcommittee.*

48 **Sec. 2.5.** NRS 353.210 is hereby amended to read as follows:

49 353.210 1. Except as otherwise provided in subsection 6, on or before
50 September 1 of each even-numbered year, all departments, institutions and other
51 agencies of the Executive Department of the State Government, and all agencies of
52 the Executive Department of the State Government receiving state money, fees or

1 other money under the authority of the State, including those operating on money
2 designated for specific purposes by the Nevada Constitution or otherwise, shall
3 prepare, on blanks furnished them by the Chief, and submit to the Chief:

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

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

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

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

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

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

31 5. If any department, institution or other agency of the Executive Department
32 of the State Government, whether its money is derived from state money or from
33 other money collected under the authority of the State, fails or neglects to submit
34 estimates of its expenditure requirements as provided in this section, the Chief may,
35 from any data at hand in his office or which he may examine or obtain elsewhere,
36 make and enter a proposed budget for the department, institution or agency in
37 accordance with the data.

38 6. Agencies, bureaus, commissions and officers of the Legislative
39 Department, the Public Employees' Retirement System and the Judicial Department
40 of the State Government shall submit to the Chief for his information in preparing
41 the proposed executive budget the budgets which they propose to submit to the
42 Legislature.

43 **Sec. 2.7.** 1. The Legislative Auditor shall conduct an audit concerning the
44 use by agencies of the Executive Branch of State Government of contracts with
45 consultants. The State Controller shall provide such information as is requested by
46 the Legislative Auditor to assist with the completion of the audit.

47 2. The Legislative Auditor shall present a final written report of the audit to
48 the Audit Subcommittee of the Legislative Commission not later than February 7,
49 2011.

50 3. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit
51 performed pursuant to this section.

1 **Sec. 3.** The amendatory provisions of section 1 of this act do not apply to a
2 contract of employment specified in that section that is entered into or renewed
3 before the effective date of this act.

4 **Sec. 4.** This act becomes effective upon passage and approval.