

SENATE BILL NO. 533—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF BUDGET DIVISION)

MARCH 22, 1999

Referred to Committee on Government Affairs

SUMMARY—Authorizes designee of clerk of state board of examiners to approve certain contracts. (BDR 23-775)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~for omitted material~~ is material to be omitted.

AN ACT relating to governmental administration; authorizing a designee of the clerk of the state board of examiners to approve certain contracts on behalf of the board; 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 284.173 is hereby amended to read as follows:
2 284.173 1. Elective officers and heads of departments, boards,
3 commissions or institutions may contract for the services of persons as
4 independent contractors.
5 2. An independent contractor is a natural person, firm or corporation
6 who agrees to perform services for a fixed price according to his or its own
7 methods and without subjection to the supervision or control of the other
8 contracting party, except as to the results of the work, and not as to the
9 means by which the services are accomplished.
10 3. For the purposes of this section:
11 (a) Travel, subsistence and other personal expenses may be paid to an
12 independent contractor, if provided for in the contract, in such amounts as
13 provided for in the contract. Those expenses must not be paid pursuant to
14 the provisions of NRS 281.160.
15 (b) There must be no:
16 (1) Withholding of income taxes by the state;
17 (2) Coverage for industrial insurance provided by the state;

1 (3) Participation in group insurance plans which may be available to
2 employees of the state;

3 (4) Participation or contributions by either the independent contractor
4 or the state to the public employees' retirement system;

5 (5) Accumulation of vacation leave or sick leave; or

6 (6) Coverage for unemployment compensation provided by the state
7 if the requirements of NRS 612.085 for independent contractors are met.

8 4. An independent contractor is not in the classified or unclassified
9 service of the state, and has none of the rights or privileges available to
10 officers or employees of the State of Nevada.

11 5. Except as otherwise provided in this subsection, each contract for
12 the services of an independent contractor must be in writing. The form of
13 the contract must be first approved by the attorney general, and, except as
14 otherwise provided in subsection 7, an executed copy of each contract must
15 be filed with the fiscal analysis division of the legislative counsel bureau
16 and the clerk of the state board of examiners. The state board of examiners
17 may waive the requirements of this subsection in the case of contracts
18 which are for amounts less than \$750.

19 6. Except as otherwise provided in subsection 7, and except contracts
20 entered into by the University and Community College System of Nevada,
21 each proposed contract with an independent contractor must be submitted
22 to the state board of examiners. The contracts do not become effective
23 without the prior approval of the state board of examiners, but the state
24 board of examiners may authorize its clerk *or his designee* to approve
25 contracts which are:

26 (a) For amounts less than \$5,000 or, in contracts necessary to preserve
27 life and property, for amounts less than \$25,000.

28 (b) Entered into by the state gaming control board for the purposes of
29 investigating an applicant for or holder of a gaming license.

30 The state board of examiners shall adopt regulations to carry out the
31 provisions of this section.

32 7. Copies of the following types of contracts need not be filed or
33 approved as provided in subsections 5 and 6:

34 (a) Contracts executed by the department of transportation for any work
35 of construction or reconstruction of highways.

36 (b) Contracts executed by the state public works board or any other state
37 department or agency for any work of construction or major repairs of state
38 buildings if the contracting process was controlled by the rules of open
39 competitive bidding.

40 (c) Contracts executed by the housing division of the department of
41 business and industry.

42 (d) Contracts executed by the state industrial insurance system.

1 (e) Contracts executed with business entities for any work of
2 maintenance or repair of office machines and equipment.

3 8. The state board of examiners shall review each contract submitted
4 for approval pursuant to subsection 6 to consider:

5 (a) Whether sufficient authority exists to expend the money required by
6 the contract; and

7 (b) Whether the service which is the subject of the contract could be
8 provided by a state agency in a more cost-effective manner.

9 If the contract submitted for approval continues an existing contractual
10 relationship, the board shall ask each agency to ensure that the state is
11 receiving the services that the contract purports to provide.

12 9. If the services of an independent contractor are contracted for to
13 represent an agency of the state in any proceeding in any court, the contract
14 must require the independent contractor to identify in all pleadings the
15 specific state agency which he is representing.

16 **Sec. 2.** This act becomes effective at 12:01 a.m. on July 1, 1999.