

ASSEMBLY BILL NO. 556—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF DEPARTMENT OF ADMINISTRATION—BUDGET DIVISION)

MARCH 26, 2001

Referred to Concurrent Committees on Government Affairs
and Ways and Means

SUMMARY—Revises certain provisions governing authority of state board of examiners, requirements for certain agreements for interlocal cooperation between public agencies and fund to stabilize the operation of the state government. (BDR 31-565)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to the administration of public agencies; expanding the authority of the state board of examiners to make certain emergency expenditures, to waive certain requirements regarding contracts for the services of independent contractors and to authorize its clerk to approve certain contracts and claims for money; requiring the clerk to make periodic reports of his determinations regarding such claims; requiring the state controller to transfer money from the fund to stabilize the operation of the state government under certain circumstances; requiring certain agreements for interlocal cooperation between public agencies to be in writing; 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 353.097 is hereby amended to read as follows:
2 353.097 1. As used in this section , “stale claim” means a claim
3 which is presented by a state agency to the state board of examiners after
4 the date on which it is provided by law that money appropriated to that
5 state agency for the previous fiscal year reverts to the fund from which
6 appropriated.
7 2. There is hereby created a stale claims account in the state general
8 fund. Money for the account must be provided by direct legislative
9 appropriation.
10 3. Upon the approval of a stale claim ~~by the state board of examiners,~~
11 ***as provided in this section,*** the claim must be paid from the stale claims
12 account. Payments of stale claims for a state agency must not exceed the



1 amount of money reverted to the fund from which appropriated by the state
2 agency for the fiscal year in which the obligations represented by the state
3 claims were incurred.

4 4. *A stale claim must be approved for payment from the stale claims*
5 *account by the state board of examiners, except that the state board of*
6 *examiners may authorize its clerk, under such circumstances as it deems*
7 *appropriate, to approve stale claims on behalf of the board. A state*
8 *agency that is aggrieved by a determination of the clerk to deny all or any*
9 *part of a stale claim may appeal that determination to the state board of*
10 *examiners.*

11 5. A stale claim may be approved and paid at any time, despite the age
12 of the claim, if payable from available federal grants or from a permanent
13 fund in the state treasury other than the state general fund.

14 Sec. 2. NRS 353.110 is hereby amended to read as follows:

15 353.110 1. Whenever an amount has been paid into a county treasury
16 for taxes which exceeds the amount required by law to be paid for the
17 applicable tax year, and all or part of the amount so paid has been
18 deposited in the state treasury, a claim for refund of that portion of the
19 overpayment which has been deposited in the state treasury may be made
20 only to the state board of examiners.

21 2. Whenever an overpayment of a license fee, tax or other charge has
22 been made to any state agency or officer, except under the circumstances
23 specified in subsection 1, the agency or officer may, subject to the
24 provisions of any other applicable law, refund the amount of the
25 overpayment after obtaining the approval of the state board of examiners
26 ~~[-]~~, *except that the state board of examiners may authorize its clerk,*
27 *under such circumstances as it deems appropriate, to approve such a*
28 *refund on behalf of the board. A state agency or officer who is aggrieved*
29 *by a determination of the clerk to deny all or any part of such a refund*
30 *may appeal that determination to the state board of examiners.*

31 Sec. 3. NRS 353.145 is hereby amended to read as follows:

32 353.145 1. If a ~~[state-controller's]~~ warrant *of the state controller* has
33 been canceled pursuant to the provisions of NRS 353.130, ~~[after a period of~~
34 ~~1 year from the date of the original warrant,]~~ the person in whose favor the
35 warrant was drawn may, *within 1 year after the date of the original*
36 *warrant,* renew his claim against the state, in the amount of the warrant
37 which was canceled, by presenting ~~[it to]~~ *the claim for approval by* the
38 state board of examiners ~~[-]~~, *except that the state board of examiners may*
39 *authorize its clerk, under such circumstances as it deems appropriate, to*
40 *approve such a claim on behalf of the board. A person who is aggrieved*
41 *by a determination of the clerk to deny all or any part of such a claim*
42 *may appeal that determination to the state board of examiners.*

43 2. If *a claim is* approved ~~[by the state board of examiners,]~~ *pursuant*
44 *to this section,* payment *of the claim* may be made out of the stale claims
45 account as provided in NRS 353.097.

46 Sec. 4. NRS 353.190 is hereby amended to read as follows:

47 353.190 1. In addition to his other duties, the chief is ex officio clerk
48 of the state board of examiners. Except as otherwise provided in subsection
49 4 of NRS 41.036, the chief shall:



* A B 5 5 6 *

1 (a) Assist the state board of examiners in the examination, classification
2 and preparation for audit of all the claims required to be presented to the
3 board.

4 (b) Conduct an effective check and preaudit of all those claims before
5 they are submitted to the board.

6 (c) Approve, on behalf of and when authorized by the board, claims
7 against the state not required to be passed upon by the legislature.

8 *(d) Each calendar quarter, provide to the board a report of his*
9 *determinations regarding any claims, refunds or other payments the*
10 *board has authorized him to approve on its behalf.*

11 2. The rules of procedure governing the duties of the chief pursuant to
12 this section must be adopted by the state board of examiners.

13 3. The chief may delegate these duties to his deputy.

14 **Sec. 5.** NRS 353.263 is hereby amended to read as follows:

15 353.263 1. As used in this section, "emergency" means invasion,
16 disaster, insurrection, riot, breach of the peace, substantial threat to life or
17 property, epidemic or the imminent danger thereof. The term includes
18 damage to or *the* disintegration of a building owned by this state or of the
19 mechanical or electrical system of such a building when immediate repairs
20 are necessary to maintain the integrity of the structure or its mechanical or
21 electrical system.

22 2. The emergency account is hereby created in the state general fund.
23 Money for the account must be provided by direct legislative
24 appropriation.

25 3. When the state board of examiners finds that an emergency exists
26 which requires an expenditure for which no appropriation has been made,
27 or in excess of an appropriation made, the board may authorize ~~the~~
28 ~~expenditure of not more than \$50,000~~ *an expenditure* from the emergency
29 account to meet the emergency.

30 4. The chief shall enumerate expenditures from the account made in
31 the preceding biennium in each executive budget report.

32 **Sec. 6.** NRS 353.264 is hereby amended to read as follows:

33 353.264 1. The reserve for statutory contingency account is hereby
34 created in the state general fund.

35 2. The state board of examiners shall administer the reserve for
36 statutory contingency account . ~~the~~ *The* money in the account must
37 be expended only for:

38 (a) The payment of claims which are obligations of the state pursuant to
39 NRS 41.03435, 41.0347, 176.485, 179.310, 212.040, 212.050, 212.070,
40 214.040, 281.174, 282.290, 282.315, 288.203, 293.253, 293.405, 353.120,
41 353.262, 412.154 and 475.235;

42 (b) The payment of claims which are obligations of the state pursuant
43 to:

44 (1) Chapter 472 of NRS arising from operations of the division of
45 forestry of the state department of conservation and natural resources
46 directly involving the protection of life and property; and

47 (2) NRS 7.155, 34.750, 176A.640, 178.465, 179.225, 213.153 and
48 293B.210,



1 ~~{but the claims must}~~ *except that claims may* be approved for the
2 respective purposes listed in this paragraph only when the money otherwise
3 appropriated for those purposes has been exhausted;

4 (c) The payment of claims which are obligations of the state pursuant to
5 NRS 41.0349 and 41.037, but only to the extent that the money in the fund
6 for insurance premiums is insufficient to pay the claims; and

7 (d) The payment of claims which are obligations of the state pursuant to
8 NRS 535.030 arising from remedial actions taken by the state engineer
9 when the condition of a dam becomes dangerous to the safety of life or
10 property.

11 *3. The state board of examiners may authorize its clerk, under such*
12 *circumstances as it deems appropriate, to approve, on behalf of the*
13 *board, the payment of claims from the reserve for statutory contingency*
14 *account. For the purpose of exercising any authority granted to the clerk*
15 *of the state board of examiners pursuant to this subsection, any statutory*
16 *reference to the state board of examiners relating to such a claim shall be*
17 *deemed to refer to the clerk of the board.*

18 **Sec. 7.** NRS 353.288 is hereby amended to read as follows:

19 353.288 1. The fund to stabilize the operation of the state
20 government is hereby created as a special revenue fund. Except as
21 otherwise provided in subsections 2 and 3, the state controller shall deposit
22 to the credit of the fund two-fifths of any revenue in the state general fund
23 collected by the state for general, unrestricted uses, and not for special
24 purposes, in excess of the amount necessary to:

25 (a) Pay all appropriations made for the support of the state government
26 for the fiscal year in which that revenue will be deposited in the fund; and

27 (b) Attain the reserve required by NRS 353.213.

28 2. The balance in the fund must not exceed 10 percent of the total of
29 all appropriations from the state general fund for the operation of all
30 departments, institutions and agencies of the state government and
31 authorized expenditures from the state general fund for the regulation of
32 gaming for the fiscal year in which that revenue will be deposited in the
33 fund.

34 3. Except as otherwise provided in this subsection and NRS 353.2735,
35 beginning with the fiscal year that begins on July 1, 1999, the state
36 controller shall, at the end of each quarter of a fiscal year, transfer from the
37 state general fund to the disaster relief fund created pursuant to NRS
38 353.2735 an amount equal to one-half of the interest earned on money in
39 the fund to stabilize the operation of state government during the previous
40 quarter. The state controller shall not transfer more than \$500,000 for any
41 quarter pursuant to this subsection.

42 4. Money from the fund to stabilize the operation of the state
43 government may be appropriated only:

44 (a) If the total actual revenue of the state falls short by 5 percent or
45 more of the total anticipated revenue for the biennium in which the
46 appropriation is made; or

47 (b) If the legislature and the governor declare that a fiscal emergency
48 exists.



* A B 5 5 6 *

1 5. *Upon receipt of an executive order of the governor and a*
2 *resolution adopted by the interim finance committee which both*
3 *determine that a fiscal emergency exists, the state controller shall*
4 *transfer money from the fund to stabilize the operation of the state*
5 *government to the contingency fund, created by NRS 353.266, for*
6 *distribution pursuant to NRS 353.266, 353.268 and 353.269. The amount*
7 *of money transferred pursuant to this subsection must be the lesser of the*
8 *amounts specified in the executive order or resolution if the amount to be*
9 *transferred is not the same in those documents.*

10 **Sec. 8.** NRS 277.110 is hereby amended to read as follows:

11 277.110 Except as limited by NRS 280.105:

12 1. Any power, privilege or authority exercised or capable of exercise
13 by a public agency of this state, including , but not limited to , law
14 enforcement, may be exercised jointly with any other public agency of this
15 state, and jointly with any public agency of any other state or of the United
16 States to the extent that the laws of such other state or of the United States
17 permit such joint exercise. Any agency of this state when acting jointly
18 with any other public agency may exercise all the powers, privileges and
19 authority conferred by NRS 277.080 to 277.180, inclusive, upon a public
20 agency.

21 2. Any two or more public agencies may enter into agreements with
22 one another for joint or cooperative action pursuant to the provisions of
23 NRS 277.080 to 277.170, inclusive. Those agreements become effective
24 only upon ratification by appropriate ordinance, resolution or otherwise
25 pursuant to law on the part of the governing bodies of the participating
26 public agencies. *If it is reasonably foreseeable that a participating public*
27 *agency will be required to expend \$2,000 or more to carry out such an*
28 *agreement, the agreement must be in writing.*

29 **Sec. 9.** NRS 277.140 is hereby amended to read as follows:

30 277.140 As conditions precedent to the entry into force of any
31 agreement made pursuant to NRS 277.080 to 277.170, inclusive:

32 1. ~~{Such agreement shall}~~ *The agreement must* be submitted to the
33 attorney general, who shall determine whether it is in proper form and
34 compatible with the laws of this state. The attorney general shall set forth
35 in detail , in writing , addressed to the governing bodies of the public
36 agencies concerned , any specific respects in which he finds that the
37 proposed agreement fails to meet the requirements of law. ~~{Failure}~~ *Any*
38 *failure by the attorney general* to disapprove an agreement submitted
39 under the provisions of this section within 30 days after its submission
40 shall *be deemed to* constitute *his* approval.

41 2. ~~{Such agreement shall}~~ *If the agreement is in writing, it must* be
42 filed with the county recorder of each county in which a participating
43 political subdivision of this state is located, and with the secretary of state.

44 **Sec. 10.** NRS 277.180 is hereby amended to read as follows:

45 277.180 1. Any one or more public agencies may contract with any
46 one or more other public agencies to perform any governmental service,
47 activity or undertaking which any of the public agencies entering into the
48 contract is authorized by law to perform. Such a contract must ~~{be}~~ :



* A B 5 5 6 *

1 (a) *Be* ratified by appropriate official action of the governing body of
2 each party to the contract as a condition precedent to its entry into force.

3 ~~{Such a contract must set}~~

4 (b) *Set* forth fully the purposes, powers, rights, objectives and
5 responsibilities of the contracting parties. *If it is reasonably foreseeable*
6 *that a contracting party will be required to expend \$2,000 or more to*
7 *carry out the contract, the contract must be in writing.*

8 2. The authorized purposes of agreements made pursuant to subsection
9 1 include, but are not limited to:

10 (a) The joint use of hospitals, road construction and repair equipment,
11 and such other facilities or services as may and can be reasonably used for
12 the promotion and protection of the health and welfare of the inhabitants of
13 this state.

14 (b) The joint use of county and city personnel, equipment and facilities,
15 including sewer systems, drainage systems, street lighting systems, fire
16 alarm systems, sewage disposal plants, playgrounds, parks and recreational
17 facilities, and public buildings constructed by or under the supervision of
18 the board of county commissioners or the city council of the county and
19 city concerned, upon such terms and agreements, and within such areas
20 within the county as may be determined, for the promotion and protection
21 of health, comfort, safety, life, welfare and property of the inhabitants of
22 the counties and cities.

23 (c) The joint employment of clerks, stenographers and other employees
24 in the offices of the city and county auditor, city and county assessor, city
25 and county treasurer, or any other joint city and county office existing or
26 hereafter established in the several counties, upon such terms and
27 conditions as may be determined for the equitable apportionment of the
28 expenses of the joint city and county office.

29 (d) The joint and cooperative use of fire-fighting and fire-protection
30 equipment for the protection of property and the prevention and
31 suppression of fire.

32 (e) The joint use of county and city personnel, equipment and facilities,
33 upon such terms and conditions, and within such areas within the county as
34 may be determined, for the promotion and protection of the health of the
35 inhabitants of the county and city through the regulation, control and
36 prohibition of the excessive emission of dense smoke and air pollution.

37 (f) The joint and cooperative use of law enforcement agencies.

38 (g) The joint use or operation of a system of public transportation.

39 3. Each public agency which has entered into an agreement pursuant to
40 this section shall annually at the time of preparing its budget include an
41 estimate of the expenses necessary to carry out such agreement, the funds
42 for which are not made available through grant, gift or other source, and
43 provide for such expense as other items are provided in its budget. Each
44 such public agency may furnish property, personnel or services as
45 necessary to carry out the agreement.

46 **Sec. 11.** NRS 284.173 is hereby amended to read as follows:

47 284.173 1. Elective officers and heads of departments, boards,
48 commissions or institutions may contract for the services of persons as
49 independent contractors. Except as otherwise provided by specific statute,



* A B 5 5 6 *

1 each contract for services must be awarded pursuant to the provisions of
2 chapter 333 of NRS.

3 2. An independent contractor is a natural person, firm or corporation
4 who agrees to perform services for a fixed price according to his or its own
5 methods and without subjection to the supervision or control of the other
6 contracting party, except as to the results of the work, and not as to the
7 means by which the services are accomplished.

8 3. For the purposes of this section:

9 (a) Travel, subsistence and other personal expenses may be paid to an
10 independent contractor, if provided for in the contract, in such amounts as
11 provided for in the contract. Those expenses must not be paid pursuant to
12 the provisions of NRS 281.160.

13 (b) There must be no:

- 14 (1) Withholding of income taxes by the state;
15 (2) Coverage for industrial insurance provided by the state;
16 (3) Participation in group insurance plans which may be available to
17 employees of the state;
18 (4) Participation or contributions by either the independent contractor
19 or the state to the public employees' retirement system;
20 (5) Accumulation of vacation leave or sick leave; or
21 (6) Coverage for unemployment compensation provided by the state
22 if the requirements of NRS 612.085 for independent contractors are met.

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

26 5. Except as otherwise provided in this subsection, each contract for
27 the services of an independent contractor must be in writing. The form of
28 the contract must be first approved by the attorney general, and except as
29 otherwise provided in subsection 7, an executed copy of each contract must
30 be filed with the fiscal analysis division of the legislative counsel bureau
31 and the clerk of the state board of examiners. The state board of examiners
32 may waive the requirements of this subsection in the case of contracts
33 which are for amounts less than ~~\$750.~~ **\$2,000.**

34 6. Except as otherwise provided in subsection 7, and except contracts
35 entered into by the University and Community College System of Nevada,
36 each proposed contract with an independent contractor must be submitted
37 to the state board of examiners. The contracts do not become effective
38 without the prior approval of the state board of examiners, ~~but~~ **except that**
39 the state board of examiners may authorize its clerk or his designee to
40 approve contracts which are:

41 (a) For amounts less than ~~\$5,000~~ **\$10,000** or, in contracts necessary to
42 preserve life and property, for amounts less than \$25,000.

43 (b) Entered into by the state gaming control board for the purposes of
44 investigating an applicant for or holder of a gaming license.
45 The state board of examiners shall adopt regulations to carry out the
46 provisions of this section.

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



- 1 (a) Contracts executed by the department of transportation for any work
2 of construction or reconstruction of highways.
- 3 (b) Contracts executed by the state public works board or any other state
4 department or agency for any work of construction or major repairs of state
5 buildings if the contracting process was controlled by the rules of open
6 competitive bidding.
- 7 (c) Contracts executed by the housing division of the department of
8 business and industry.
- 9 (d) Contracts executed with business entities for any work of
10 maintenance or repair of office machines and equipment.
- 11 8. The state board of examiners shall review each contract submitted
12 for approval pursuant to subsection 6 to consider:
- 13 (a) Whether sufficient authority exists to expend the money required by
14 the contract; and
- 15 (b) Whether the service which is the subject of the contract could be
16 provided by a state agency in a more cost-effective manner.
- 17 If the contract submitted for approval continues an existing contractual
18 relationship, the board shall ask each agency to ensure that the state is
19 receiving the services that the contract purports to provide.
- 20 9. If the services of an independent contractor are contracted for to
21 represent an agency of the state in any proceeding in any court, the contract
22 must require the independent contractor to identify in all pleadings the
23 specific state agency which he is representing.
- 24 **Sec. 12.** NRS 475.230 is hereby amended to read as follows:
- 25 475.230 1. Any fire department which engages in fighting a fire on
26 property owned by the state within the jurisdictional limits of the fire
27 department may submit a claim to the ~~secretary of the~~ state board of
28 examiners to recover any direct expenses and losses incurred as a result of
29 fighting that fire.
- 30 2. The claim must include:
- 31 (a) The name, address and jurisdictional limits of the fire department;
- 32 (b) The name, address and telephone number of the person making the
33 claim on behalf of the fire department;
- 34 (c) The name and address, if known, of the state agency having
35 jurisdiction over the property on which the fire occurred;
- 36 (d) The exact location of the fire;
- 37 (e) A description of the property burned;
- 38 (f) The number and classification of the personnel and the number and
39 type of equipment used to fight the fire;
- 40 (g) A copy of the fire report; and
- 41 (h) An itemized list of direct expenses and losses incurred while
42 fighting the fire, including the purchase cost, estimated cost of repairs and
43 a statement of depreciated value immediately preceding and after the
44 damage to or destruction of any equipment and the extent of any insurance
45 coverage.
- 46 3. As used in this section, "direct expenses and losses" means certain
47 expenses and losses which were incurred while fighting a fire on property
48 owned by the state. The term is limited to:



1 (a) The depreciated value, if any, of any equipment or vehicle which
2 was damaged or destroyed; and

3 (b) If the employer maintains a plan which supplements coverage for
4 workers' compensation provided pursuant to chapters 616A to 616D,
5 inclusive, or chapter 617 of NRS by a private carrier and, if the benefits are
6 provided from public money and not by an insurer, any injury or death
7 benefits which would have been paid by the employer from public money.

8 **Sec. 13.** This act becomes effective on July 1, 2001.

