

Assembly Bill No. 556—Committee on Government Affairs

CHAPTER.....

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 take certain actions on its behalf; requiring the clerk to make periodic reports of his determinations regarding certain of those actions; 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:

**Section 1.** NRS 353.057 is hereby amended to read as follows:

353.057 1. The state board of examiners may authorize ~~the establishment of its clerk, under such circumstances as it deems appropriate, to authorize a state agency to establish~~ a petty cash account ~~not to exceed \$250 by any state agency~~ *of not more than \$250* out of the agency's budgeted resources.

2. If a petty cash account is authorized for any state agency ~~by the state board of examiners~~ *pursuant to this section, the clerk* shall:

(a) Define the purposes for which the petty cash account may be used; and

(b) Provide that replenishment claims must be paid from the agency's budgeted resources and processed as other claims against the state are paid.

**Sec. 2.** NRS 353.097 is hereby amended to read as follows:

353.097 1. As used in this section, "stale claim" means a claim which is presented by a state agency to the state board of examiners after the date on which it is provided by law that money appropriated to that state agency for the previous fiscal year reverts to the fund from which appropriated.

2. There is hereby created a stale claims account in the state general fund. Money for the account must be provided by direct legislative appropriation.

3. Upon the approval of a stale claim ~~by the state board of examiners,~~ *as provided in this section*, the claim must be paid from the stale claims account. Payments of stale claims for a state agency must not exceed the amount of money reverted to the fund from which appropriated by the state agency for the fiscal year in which the obligations represented by the stale claims were incurred.

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

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

**Sec. 3.** NRS 353.110 is hereby amended to read as follows:

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

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

**Sec. 4.** NRS 353.145 is hereby amended to read as follows:

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

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

**Sec. 5.** NRS 353.190 is hereby amended to read as follows:

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

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

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

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

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

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

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

**Sec. 6.** NRS 353.263 is hereby amended to read as follows:

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

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

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

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

**Sec. 7.** NRS 353.264 is hereby amended to read as follows:

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

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

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

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

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

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

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

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

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

3. *The state board of examiners may authorize its clerk, under such circumstances as it deems appropriate, to approve, on behalf of the board, the payment of claims from the reserve for statutory contingency account. For the purpose of exercising any authority granted to the clerk of the state board of examiners pursuant to this subsection, any statutory*

*reference to the state board of examiners relating to such a claim shall be deemed to refer to the clerk of the board.*

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

277.110 Except as limited by NRS 280.105:

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

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

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

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

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

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

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

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

*(a) Be* ratified by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force. ~~{Such a contract must set}~~

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

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

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

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

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

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

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

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

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

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

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

284.173 1. Elective officers and heads of departments, boards, commissions or institutions may contract for the services of persons as independent contractors. Except as otherwise provided by specific statute, each contract for services must be awarded pursuant to the provisions of chapter 333 of NRS.

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

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as

provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.

(b) There must be no:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Sec. 12.** NRS 475.230 is hereby amended to read as follows:

475.230 1. Any fire department which engages in fighting a fire on property owned by the state within the jurisdictional limits of the fire department may submit a claim to the ~~secretary of the~~ state board of examiners to recover any direct expenses and losses incurred as a result of fighting that fire.

2. The claim must include:

(a) The name, address and jurisdictional limits of the fire department;

(b) The name, address and telephone number of the person making the claim on behalf of the fire department;

(c) The name and address, if known, of the state agency having jurisdiction over the property on which the fire occurred;

(d) The exact location of the fire;

(e) A description of the property burned;

(f) The number and classification of the personnel and the number and type of equipment used to fight the fire;

(g) A copy of the fire report; and

(h) An itemized list of direct expenses and losses incurred while fighting the fire, including the purchase cost, estimated cost of repairs and a statement of depreciated value immediately preceding and after the damage to or destruction of any equipment and the extent of any insurance coverage.

3. As used in this section, "direct expenses and losses" means certain expenses and losses which were incurred while fighting a fire on property owned by the state. The term is limited to:

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

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

**Sec. 13.** Section 1 of Assembly Bill No. 128 of this session is hereby amended to read as follows:

Section 1. NRS 277.180 is hereby amended to read as follows:

277.180 1. Any one or more public agencies may contract with any one or more other public agencies to perform any governmental service, activity or undertaking which any of the public agencies

entering into the contract is authorized by law to perform. Such a contract must:

(a) Be ratified by appropriate official action of the governing body of each party to the contract as a condition precedent to its entry into force ; ~~H~~

(b) Set forth fully the purposes, powers, rights, objectives and responsibilities of the contracting parties ~~H~~ ; and

*(c) If an agency of this state is a party to the contract, be approved by the attorney general as to form and compliance with law.*

If it is reasonably foreseeable that a contracting party will be required to expend \$2,000 or more to carry out the contract, the contract must be in writing.

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

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

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

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

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

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

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

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

3. Each public agency which has entered into an agreement pursuant to this section shall annually at the time of preparing its budget include an estimate of the expenses necessary to carry out such

agreement, the funds for which are not made available through grant, gift or other source, and provide for such expense as other items are provided in its budget. Each such public agency may furnish property, personnel or services as necessary to carry out the agreement.

**Sec. 14.** This act becomes effective on July 1, 2001.