

**Amendment No. 1084**

Senate Amendment to Assembly Bill No. 39 Third Reprint

(BDR 27-560)

**Proposed by:** Committee on Government Affairs**Amendment Box:** Replaces Amendments Nos. 898 and 1036.**Resolves Conflicts with:** N/A**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
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Amend the bill as a whole by deleting sections 10 and 11 and adding new sections designated sections 10 and 11, following sec. 9, to read as follows:

“**Sec. 10.** Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. If any present or former state officer or employee is alleged to have violated any provision of this chapter, unless the state officer or employee retains his own legal counsel or the Attorney General tenders the defense of the state officer or employee to an insurer who, pursuant to a contract of insurance, is authorized to defend the state officer or employee, the Attorney General shall defend the state officer or employee or employ special counsel to defend the state officer or employee if:*

BAW

Date: 5/27/2005

A.B. No. 39—Makes various changes to provisions governing purchasing by state and local governments.

*(a) The state officer or employee submits a written request for defense in the manner provided in NRS 41.0339; and*

*(b) Based on the facts and allegations known to the Attorney General, the Attorney General determines that the act or omission on which the alleged violation is based:*

*(1) Appears to be within the course and scope of public duty or employment of the state officer or employee; and*

*(2) Appears to have been performed or omitted in good faith.*

*2. The Attorney General shall create a written record setting forth the basis for his determination of whether to defend the state officer or employee pursuant to paragraph (b) of subsection 1. The written record is not admissible in evidence at trial or in any other judicial or administrative proceeding in which the state officer or employee is a party, except in connection with an application to withdraw as the attorney of record.*

**Sec. 11.** NRS 281.431 is hereby amended to read as follows:

281.431 As used in NRS 281.411 to 281.581, inclusive, **and section 10 of this act**, unless the context otherwise requires, the words and terms defined in NRS 281.432 to 281.4375, inclusive, have the meanings ascribed to them in those sections.”.

Amend the title of the bill to read as follows:

“AN ACT relating to government; providing a procedure for a bidder to file a notice of protest regarding certain contracts; expanding the criteria that may be used to select the lowest responsive and responsible bidder on certain contracts; expanding the types of contracts which by nature are not adapted to award by competitive bidding; requiring the Attorney General to defend a state officer or employee alleged to have committed an ethical

violation under certain circumstances; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes to provisions governing purchasing by state and local governments and ethics in government. (BDR 27-560)”.

**If this amendment is adopted, the Legislative  
Counsel's Digest will be changed to read as follows:**

**Legislative Counsel's Digest:**

Existing law provides a procedure for bidders on state purchasing contracts and public works contracts to appeal or protest the awarding of the contract. (NRS 333.370, 338.142)

This bill provides a procedure for bidders on certain local governmental purchasing contracts to file a notice of protest with the governing body of the local government or its authorized representative concerning the awarding of the contract.

Under existing law, the Local Government Purchasing Act provides procedures and requirements for the purchase of supplies, materials, equipment and services by the governing body of a local government. (Chapter 332 of NRS) In relevant part, the Act provides criteria for awarding purchasing contracts and exempts certain types of purchasing contracts from the requirements of competitive bidding. (NRS 332.065, 332.115)

This bill authorizes a governing body to establish additional criteria for the awarding of a contract in the advertisement or request for bids for the contract. This bill also provides that contracts relating to systems of communication are not subject to the requirements of competitive bidding.

Existing law authorizes the Chief of the Purchasing Division of the Department of Administration, on behalf of the State of Nevada and certain local governments in Nevada, to purchase supplies, materials and equipment from a vendor who has entered into an agreement with the United States General Services Administration or another governmental agency. (NRS 333.480)

This bill provides notice in the Local Government Purchasing Act that the State of Nevada has authority to enter into purchasing contracts with local governments within and outside Nevada.

This bill also provides that if any present or former state officer or employee is alleged to have violated any provision of chapter 281 of NRS, unless the state officer or employee retains his own legal counsel to defend himself or the Attorney General tenders the defense of the state officer or employee to an insurer, the Attorney General is required to defend the state officer or employee or employ special counsel to defend the state officer or employee. The Attorney General's duty to defend the state officer or employee only arises if the state officer or employee submits a written request to the Attorney General and the Attorney General determines that the act or omission on which the alleged violation is based appears to be within the course and scope of public duty or employment of the state officer or employee and appears to have been performed or omitted in good faith. The Attorney General is also required to create a written record setting forth the basis for his determination of whether to defend the state officer or employee. The written record is not admissible in evidence at trial or in any other judicial or administrative proceeding in which the state officer or employee is a party, except in connection with an application to withdraw as the attorney of record.