

SENATE BILL NO. 509—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE ADVISORY GROUP TO CONDUCT INTERIM  
STUDY ON LEASE-PURCHASE AND INSTALLMENT-PURCHASE  
AGREEMENTS BY PUBLIC ENTITIES)

MARCH 26, 2007

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to provisions relating to state financial administration and the acquisition of property. (BDR 31-424)

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 state financial administration; requiring state agencies to advertise for proposals before entering into certain lease-purchase and installment-purchase agreements; making various other changes to provisions relating to lease-purchase and installment-purchase agreements; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law authorizes state agencies to enter into lease-purchase and installment-purchase agreements to acquire real property, an interest in real property or an improvement to real property. (NRS 353.500-353.630) **Section 2** of this bill requires a state agency to advertise for proposals before it enters into a lease-purchase or installment-purchase agreement for the purpose of acquiring an existing building that is located on property which is not owned by the State. **Section 3** of this bill specifies the requirements for such an advertisement. **Section 2** also requires that, if a state agency wishes to enter into a lease-purchase or installment-purchase agreement requiring the construction of a building on property which is owned by the State, the agency must contract with a design-build team for the design and construction of the building.

Existing law provides the requirements for lease-purchase and installment-purchase agreements which extend beyond the biennium in which the agreements are executed. Any such agreement must prohibit certificates of participation unless the State Board of Finance waives the prohibition. (NRS 353.550) **Section 5** of this bill provides that if the Board waives the prohibition, the agreement does not have



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to include: (1) the rate of interest to be paid under the agreement; (2) the dates on which and prices at which the prepayments may be made under the agreement; (3) the amount to be received from the sale of the agreement or interests therein; and (4) the principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year.

Existing law provides that if a lease-purchase or installment-purchase agreement involves an improvement to property owned by the State, the State Land Registrar may enter into a lease of the property to which the improvement will be made if the lease has a term of 35 years or less and the lease provides for rental payments that approximate the fair market rental of the property before the improvement is made. (NRS 353.600) **Section 8** of this bill provides that any such lease is exempt from the provisions of chapter 321 of NRS.

Existing law authorizes the issuance and prescribes the terms of evidence of certain installment-purchase agreements. (NRS 350.091) **Section 9** of this bill provides that certain installment-purchase agreements involving the construction, alteration, repair or remodeling of an improvement need not contain certain details and certain leases thereunder need not comply with certain statutes, but prevailing wage requirements (NRS 338.013-338.090) apply to the construction, alteration, repair or remodeling.

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

**Section 1.** Chapter 353 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

**Sec. 2. *Before a state agency enters into an agreement:***

**1. *If, pursuant to the terms of the agreement:***

**(a) *The state agency will acquire an existing building that is located on property which is not owned by the State; or***

**(b) *The state agency will construct a building that will be located on property which is not owned by the State,***

***the state agency shall advertise for proposals in the manner set forth in section 3 of this act.***

**2. *If, pursuant to the terms of the agreement, the state agency will construct a building that will be located on property which is owned by the State, the state agency shall contract with a design-build team for the design and construction of the building in accordance with NRS 338.1711 to 338.1727, inclusive, regardless of the estimated cost of the building.***

**Sec. 3. 1. *A state agency that is required to advertise for proposals pursuant to section 2 of this act shall advertise for proposals in a newspaper qualified pursuant to chapter 238 of NRS that is published in the county in which the building is or will be located. If no qualified newspaper is published in the county, the required advertisement must be published in some qualified newspaper that is printed in the State of Nevada and has a general circulation in the county.***



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1       2. *A request for proposals published pursuant to subsection 1*  
2 *must include, without limitation:*

3       (a) *A description of the building, including, without limitation,*  
4 *its size and location;*

5       (b) *An estimate of the cost of the building;*

6       (c) *If the proposal is for the construction of a building:*

7       (1) *The date on which it is anticipated that the state agency*  
8 *will begin construction of the building;*

9       (2) *The date by which proposals must be submitted to the*  
10 *state agency; and*

11       (3) *A statement setting forth that the contractor who will*  
12 *construct the building must be licensed pursuant to chapter 624 of*  
13 *NRS; and*

14       (d) *Any other information that the state agency determines to*  
15 *be necessary.*

16       3. *Nothing in this section shall be construed to require a state*  
17 *agency to enter into an agreement with any person who submits a*  
18 *proposal to the state agency.*

19       **Sec. 4.** NRS 353.500 is hereby amended to read as follows:

20       353.500 As used in NRS 353.500 to 353.630, inclusive, *and*  
21 *sections 2 and 3 of this act*, unless the context otherwise requires,  
22 the words and terms defined in NRS 353.510 to 353.540, inclusive,  
23 have the meanings ascribed to them in those sections.

24       **Sec. 5.** NRS 353.550 is hereby amended to read as follows:

25       353.550 1. A state agency may propose a project to acquire  
26 real property, an interest in real property or an improvement to real  
27 property through an agreement which has a term, including the  
28 terms of any options for renewal, that extends beyond the biennium  
29 in which the agreement is executed if the agreement:

30       (a) Provides that all obligations of the State of Nevada and the  
31 state agency are extinguished by the failure of the Legislature to  
32 appropriate money for the ensuing fiscal year for payments due  
33 pursuant to the agreement;

34       (b) Does not encumber any property of the State of Nevada or  
35 the state agency except for the property that is the subject of the  
36 agreement;

37       (c) Provides that property of the State of Nevada and the state  
38 agency, except for the property that is the subject of the agreement,  
39 must not be forfeited if:

40       (1) The Legislature fails to appropriate money for payments  
41 due pursuant to the agreement; or

42       (2) The State of Nevada or the state agency breaches the  
43 agreement;

44       (d) Prohibits certificates of participation in the agreement; and



(e) For the biennium in which it is executed, does not require payments that are greater than the amount authorized for such payments pursuant to the applicable budget of the state agency.

2. The provisions of paragraph (d) of subsection 1 may be waived by the Board, upon the recommendation of the State Treasurer, if the Board determines that waiving those provisions:

(a) Is in the best interests of this State; and

(b) Complies with federal securities laws.

3. Before an agreement proposed pursuant to subsection 1 may become effective:

(a) The proposed project must be approved by the Legislature by concurrent resolution or statute or as part of the budget of the state agency, or by the Interim Finance Committee when the Legislature is not in regular session;

(b) The agency must submit the proposed agreement to the Chief, the State Treasurer and the State Land Registrar for their review and transmittal to the Board;

(c) The Board must approve the proposed agreement; and

(d) The Governor must execute the agreement.

*4. If the provisions of paragraph (d) of subsection 1 are waived as provided in subsection 2, the agreement proposed pursuant to subsection 1, and the proposed agreement submitted pursuant to paragraph (b) of subsection 3 and approved pursuant to paragraph (c) of subsection 3, need not contain the following details if the Board, before the execution of the agreement by the Governor pursuant to paragraph (d) of subsection 3, delegates to the State Treasurer or his designee the authority to make a binding agreement, subject to paragraphs (a), (b), (c) and (e) of subsection 1:*

*(a) The rate of interest to be paid under the agreement;*

*(b) The dates on which and prices at which the prepayments may be made under the agreement;*

*(c) The amount to be received from the sale of the agreement or interests therein; and*

*(d) The principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year.*

*5. All terms of the agreement other than:*

*(a) The rate of interest to be paid under the agreement;*

*(b) The dates and prices for the prepayments of amounts under the agreement;*

*(c) The amount to be received from the sale of the agreement or interests therein; and*

*(d) The principal amount to be paid under the agreement and the amount of principal to be repaid in any particular year,*



1   ↪ must be approved by the Board before the agreement is  
2   executed by the Governor.

3   6. The final rate of interest, dates and prices of prepayments,  
4   price for the sale of the agreement or interests therein, principal  
5   amount and requirements for the principal amounts to be repaid  
6   in any year are not required to be approved by the Board if each of  
7   those terms complies with the requirements specified by the Board  
8   before the agreement is executed by the Governor.

9   **Sec. 6.** NRS 353.580 is hereby amended to read as follows:

10   353.580   ~~[Any]~~ Except as otherwise provided in sections 2 and  
11   3 of this act, an agreement entered into pursuant to NRS 353.500 to  
12   353.630, inclusive, and sections 2 and 3 of this act is not subject to  
13   any requirement of competitive bidding or other restriction imposed  
14   on the procedure for the awarding of contracts.

15   **Sec. 7.** NRS 353.590 is hereby amended to read as follows:

16   353.590   If an agreement pursuant to NRS 353.500 to 353.630,  
17   inclusive, and sections 2 and 3 of this act involves the construction,  
18   alteration, repair or remodeling of an improvement:

19   1. The construction, alteration, repair or remodeling of the  
20   improvement may be conducted as specified in the agreement  
21   without complying with the provisions of:

22   (a) ~~[Any]~~ Except as otherwise provided in sections 2 and 3 of  
23   this act, any law requiring competitive bidding; or

24   (b) Chapter 341 of NRS.

25   2. The provisions of NRS 338.013 to 338.090, inclusive, apply  
26   to the construction, alteration, repair or remodeling of the  
27   improvement.

28   **Sec. 8.** NRS 353.600 is hereby amended to read as follows:

29   353.600   1. Except as otherwise provided in this section, if an  
30   agreement pursuant to NRS 353.500 to 353.630, inclusive, and  
31   sections 2 and 3 of this act involves an improvement to property  
32   owned by the State of Nevada or the state agency, the State Land  
33   Registrar, in consultation with the State Treasurer and in  
34   conjunction with the agreement, upon approval of the State Board of  
35   Examiners may enter into a lease of the property to which the  
36   improvement will be made if the lease:

37   (a) Has a term of 35 years or less; and

38   (b) Provides for rental payments that approximate the fair  
39   market rental of the property before the improvement is made, as  
40   determined by the State Land Registrar in consultation with the  
41   State Treasurer at the time the lease is entered into, which must be  
42   paid if the agreement terminates before the expiration of the lease  
43   because the Legislature fails to appropriate money for payments due  
44   pursuant to the agreement.



2. A lease entered into pursuant to this section may provide for nominal rental payments to be paid pursuant to the lease before the agreement terminates.

3. Before the State Land Registrar may enter into a lease pursuant to this section:

(a) The State Land Registrar must submit the proposed lease to the Chief and the State Treasurer for their review and transmittal to the Board; and

(b) The Board must approve the lease.

*4. Any lease of state land under this section is exempt from the requirements of chapter 321 of NRS.*

**Sec. 9.** NRS 350.091 is hereby amended to read as follows:

350.091 1. Whenever the governing body of any local government is authorized to enter into a medium-term obligation or installment-purchase agreement as provided in NRS 280.266 or 350.089 that is intended to finance a capital project, the governing body shall update its plan for capital improvement in the same manner as is required for general obligation debt pursuant to NRS 350.013.

2. Whenever the governing body of any local government is authorized to enter into a medium-term obligation as provided in NRS 350.089, the governing body may issue, as evidence thereof, negotiable notes or medium-term negotiable bonds that, except as otherwise provided in subsection 5 of NRS 496.155:

(a) Must mature not later than 10 years after the date of issuance;

(b) Must bear interest at a rate or rates which do not exceed by more than 3 percent the Index of Twenty Bonds which was most recently published before the bids are received or a negotiated offer is accepted; and

(c) May, at the option of the local government, contain a provision which allows redemption of the notes or bonds before maturity, upon such terms as the governing body determines.

3. Whenever the governing body of any local government is authorized to enter into an installment-purchase agreement as provided in NRS 280.266 or 350.089, the governing body may issue, as evidence thereof, an installment-purchase agreement, lease or other evidence of a transaction described in NRS 350.800. An installment-purchase agreement, lease or other evidence of a transaction described in NRS 350.800 issued pursuant to this subsection:

(a) Must have a term that is 30 years or less;

(b) Must bear interest at a rate or rates that do not exceed by more than 3 percent the Index of Revenue Bonds which was most



1 recently published before the local government enters into the  
2 installment-purchase agreement; and

3 (c) May, at the option of the local government, contain a  
4 provision that allows prepayment of the purchase price upon such  
5 terms as are provided in the agreement.

6 4. *A proposed installment-purchase agreement approved by*  
7 *the governing body need not contain the following details if the*  
8 *governing body, before the execution of the installment-purchase*  
9 *agreement, delegates to its chief administrative officer or chief*  
10 *financial officer, or both, the authority to make a binding*  
11 *agreement, subject to paragraph (a) of subsection 1 of*  
12 *NRS 350.800:*

13 (a) *The rate of interest to be paid under the installment-*  
14 *purchase agreement;*

15 (b) *The dates on which and the prices at which the*  
16 *prepayments may be made under the installment-purchase*  
17 *agreement;*

18 (c) *The amount to be received from the sale of the installment-*  
19 *purchase agreement or interests therein; and*

20 (d) *The principal amount to be paid under the installment-*  
21 *purchase agreement and the amount of principal to be repaid in*  
22 *any particular year.*

23 5. *All terms of the installment-purchase agreement other*  
24 *than:*

25 (a) *The rate of interest;*

26 (b) *The dates and prices for the prepayments of amounts under*  
27 *the installment-purchase agreement;*

28 (c) *The amount to be received from the sale of the installment-*  
29 *purchase agreement or interests therein; and*

30 (d) *The principal amount to be paid under the installment-*  
31 *purchase agreement and the amount of principal to be repaid in*  
32 *any particular year,*

33 *↪ must be approved by the governing body before the installment-*  
34 *purchase agreement is executed.*

35 6. *If an installment-purchase agreement involves a lease for a*  
36 *term of 35 years or less of land of the municipality on which*  
37 *improvements are to be located which will be, in whole or in part,*  
38 *the subject of the installment-purchase agreement, then no*  
39 *provisions of law, including, without limitation, NRS 244.2795,*  
40 *244.281, 244.282, 244.283, 266.267, 268.059, 268.061 or 268.062,*  
41 *that require an appraisal or public bidding before entering into or*  
42 *executing that lease apply to the lease entered into under this*  
43 *subsection.*

44 7. *If an installment-purchase agreement pursuant to this*  
45 *section involves the construction, alteration, repair or remodeling*



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1 *of an improvement, the provisions of NRS 338.013 to 338.090,*  
2 *inclusive, apply to the construction, alteration, repair or*  
3 *remodeling of the improvement.*

4 8. If the term of the medium-term obligation or installment-  
5 purchase agreement is more than 5 years, the weighted average term  
6 of the medium-term obligation or installment-purchase agreement  
7 may not exceed the estimated weighted average useful life of the  
8 assets being financed with the medium-term obligation or  
9 installment-purchase agreement.

10 ~~[5.]~~ 9. For the purposes of subsection ~~[4.]~~ 8, the Committee on  
11 Local Government Finance may adopt regulations that provide  
12 guidelines for the useful life of various types of assets and for  
13 calculation of the weighted average useful life of assets.

14 **Sec. 10.** This act becomes effective on July 1, 2007.

