

Amendment No. 308

Senate Amendment to Senate Bill No. 307

(BDR 27-782)

Proposed by: Senate Committee on Government Affairs**Amends:** Summary: No 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"/>	_____	
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____			Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

EGO/MSM



Date: 4/21/2007

S.B. No. 307—Revises certain provisions relating to state and local governmental purchasing. (BDR 27-782)



SENATE BILL NO. 307—SENATOR TITUS

MARCH 19, 2007

Referred to Committee on Government Affairs

SUMMARY—Revises certain provisions relating to state and local governmental purchasing. (BDR 27-782)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 purchasing; prohibiting the solicitation or provision of certain information before the award of purchasing contracts; imposing certain requirements **on public officers and employees** relating to inducements offered by bidders on such contracts; prohibiting the ~~hiring~~ **solicitation or acceptance of certain employment by certain** contracting officials within a certain period after their employment or service is terminated; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, persons who have bid on a contract proposed to be awarded by a local government or by the Purchasing Division of the Department of Administration are prohibited from soliciting or obtaining proprietary information regarding the contract from officers or employees of the governmental entity on whose behalf the contract is being offered. (NRS 332.810, 333.800) **Sections 2 and 4** of this bill expand this prohibition to include the soliciting or obtaining of information regarding another person's bid on the contract, unless such information is available to the general public. ~~Sections 1 and 3~~ **Section 5** of this bill ~~prohibit~~ **prohibits** officers and employees of the ~~governmental entity on whose behalf a contract is being offered~~ **State or a local government** from offering or providing to a bidder on ~~the~~ **a purchasing** contract **with the State or local government** certain information before the award of the contract. ~~Sections 1 and 3~~ **Section 5** also ~~require~~ **requires** those officers and employees to refuse inducements offered by bidders and to report such inducements to their immediate supervisors.

Under existing law, certain regulated businesses must observe a 1-year "cooling off" period before hiring certain former public officers and employees who were involved in regulating such a business. (NRS 281.236) **Section 6** of this bill prohibits a ~~person who was awarded~~ **former public officer or employee whose position allowed him to affect, influence or otherwise provide input with respect to the awarding of a state or local governmental purchasing contract in an amount that exceeds \$25,000 from ~~employing~~ **soliciting or accepting employment from the person who was awarded the contract** for a period of 1 year after the date of the award of the contract. ~~A former public officer or employee whose position allowed him to affect, influence or otherwise provide input with respect to the awarding of the contract.~~ **Section 6** allows the Commission on Ethics to provide relief from the strict application of this rule under certain circumstances.**

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

1 **Section 1.** ~~[Chapter 332 of NRS is hereby amended by adding thereto a new~~
2 ~~section to read as follows:~~

3 ~~1. An officer or employee of a local government who receives an offer or~~
4 ~~promise described in paragraph (a) or (b) of subsection 1 of NRS 332.810 shall:~~

5 ~~(a) Refuse the offer or promise; and~~

6 ~~(b) Within 72 hours after receiving the offer or promise, report the~~
7 ~~occurrence to his immediate supervisor or, if he does not have an immediate~~
8 ~~supervisor, to the administrative head of the agency by which he is employed.~~

9 ~~2. Before a contract is awarded pursuant to this chapter, an officer or~~
10 ~~employee of the local government shall not offer or provide to a person who has~~
11 ~~bid on the contract:~~

12 ~~(a) Any proprietary information regarding the contract; or~~

13 ~~(b) Any information regarding a bid on the contract submitted by another~~
14 ~~person, unless such information is available to the general public.~~

15 ~~3. An officer or employee of a local government who violates the provisions~~
16 ~~of subsection 1 or 2 is subject to disciplinary action.~~ **(Deleted by amendment.)**

17 **Sec. 2.** NRS 332.810 is hereby amended to read as follows:

18 332.810 1. Before a contract is awarded, a person who has bid on the
19 contract or an officer, employee, representative, agent or consultant of such a
20 person shall not:

21 (a) Make an offer or promise of future employment or business opportunity to,
22 or engage in a discussion of future employment or business opportunity with, an
23 evaluator or member of the governing body offering the contract;

24 (b) Offer, give or promise to offer or give money, a gratuity or any other thing
25 of value to an evaluator or member of the governing body offering the contract; or

26 (c) Solicit or obtain from an officer, employee or member of the governing
27 body offering the contract ~~[- any] :~~

28 **(1) Any proprietary information regarding the contract ~~[- any] ; or~~**

29 **(2) Any information regarding a bid on the contract submitted by**
30 **another person, unless such information is available to the general public.**

31 2. A person who violates any of the provisions of subsection 1 is guilty of a
32 gross misdemeanor and shall be punished by imprisonment in the county jail for not
33 more than 1 year, or by a fine of not less than \$2,000 nor more than \$50,000, or by
34 both fine and imprisonment.

35 **Sec. 3.** ~~[Chapter 333 of NRS is hereby amended by adding thereto a new~~
36 ~~section to read as follows:~~

37 ~~1. An officer or employee of the Purchasing Division or of a using agency~~
38 ~~who receives an offer or promise described in paragraph (a) or (b) of subsection 1~~
39 ~~of NRS 333.800 shall:~~

40 ~~(a) Refuse the offer or promise; and~~

41 ~~(b) Within 72 hours after receiving the offer or promise, report the~~
42 ~~occurrence to his immediate supervisor or, if he does not have an immediate~~
43 ~~supervisor, to the administrative head of the agency by which he is employed.~~

44 ~~2. Before a contract is awarded pursuant to this chapter, an officer or~~
45 ~~employee of the Purchasing Division or of a using agency shall not offer or~~
46 ~~provide to a person who has bid on the contract:~~

47 ~~(a) Any proprietary information regarding the contract; or~~

48 ~~(b) Any information regarding a bid on the contract submitted by another~~
49 ~~person, unless such information is available to the general public.~~

~~3. An officer or employee of the Purchasing Division or of a using agency who violates the provisions of subsection 1 or 2 is subject to disciplinary action.~~
(Deleted by amendment.)

Sec. 4. NRS 333.800 is hereby amended to read as follows:

333.800 1. Before a contract is awarded, a person who has provided a bid or proposal on the contract or an officer, employee, representative, agent or consultant of such a person shall not:

(a) Make an offer or promise of future employment or business opportunity to, or engage in a discussion of future employment or business opportunity with, the Chief, a purchasing officer or an employee of the using agency for which the contract is being offered;

(b) Offer, give or promise to offer or give money, a gratuity or any other thing of value to the Chief, a purchasing officer or an employee of the using agency for which the contract is being offered; or

(c) Solicit or obtain ~~any proprietary information regarding the contract~~ from the Chief, a purchasing officer or an employee of the using agency for which the contract is being offered ~~[-]~~:

(1) Any proprietary information regarding the contract; or

(2) Any information regarding a bid or proposal on the contract submitted by another person, unless such information is available to the general public.

2. A person who violates any of the provisions of subsection 1 is guilty of a gross misdemeanor and shall be punished by imprisonment in the county jail for not more than 1 year, or by a fine of not less than \$2,000 nor more than \$50,000, or by both fine and imprisonment.

Sec. 5. Chapter 334 of NRS is hereby amended by adding thereto a new section to read as follows:

1. An officer or employee of the State or a local government who receives an offer or promise of future employment, a business opportunity, money, a gratuity or any other thing of value from a person who has provided a bid or proposal on a contract for supplies, materials, equipment or services to be awarded by the State or local government or from an officer, employee, representative, agent or consultant of such a person shall:

(a) Refuse the offer or promise; and

(b) Within 72 hours after receiving the offer or promise, report the occurrence to his immediate supervisor or, if he does not have an immediate supervisor, to the administrative head of the agency by which he is employed. The requirement to report such an offer or promise pursuant to this paragraph applies regardless of whether the offer or promise is subsequently withdrawn.

2. Before a contract for supplies, materials, equipment or services is awarded by the State or a local government, an officer or employee of the State or local government shall not offer or provide to a person who has bid on the contract:

(a) Any proprietary information regarding the contract; or

(b) Any information regarding a bid on the contract submitted by another person, unless such information is available to the general public.

3. An officer or employee of the State or a local government who violates the provisions of subsection 1 or 2 is subject to disciplinary action.

4. As used in this section:

(a) "Local government" means any political subdivision of the State, including, without limitation, a county, city, town, school district, general improvement district or other district.

(b) "State" means the State of Nevada or any board, commission, department or other agency or instrumentality thereof.

~~Sec. 5.~~ **Sec. 6.** NRS 281.236 is hereby amended to read as follows:

281.236 1. A public utility or parent organization or subsidiary of a public utility shall not employ a former member of the Public Utilities Commission of Nevada for 1 year after the termination of his service on the Commission.

2. A person who holds a license issued pursuant to chapter 463 or 464 of NRS or who is required to register with the Nevada Gaming Commission pursuant to chapter 463 of NRS shall not employ a former member of the State Gaming Control Board or the Nevada Gaming Commission for 1 year after the termination of the member's service on the Board or Commission.

3. In addition to the prohibitions set forth in subsections 1 and 2, a business or industry whose activities are governed by regulations adopted by a department, division or other agency of the Executive Branch of *State* Government shall not, except as otherwise provided in subsection ~~4~~ *5*, employ a former public officer or employee of the agency, except a clerical employee, for 1 year after the termination of his service or period of employment if:

(a) His principal duties included the formulation of policy contained in the regulations governing the business or industry;

(b) During the immediately preceding year, he directly performed activities, or controlled or influenced an audit, decision, investigation or other action, which significantly affected the business or industry which might, but for this section, employ him; or

(c) As a result of his governmental service or employment, he possesses knowledge of the trade secrets of a direct business competitor.

4. A former public officer or employee of the State or a local government, except a clerical employee, shall not solicit or accept employment from a person to whom a contract for supplies, materials, equipment or services was awarded by the State or a local government pursuant to chapter 332 of NRS or by the Purchasing Division of the Department of Administration pursuant to chapter 333 of NRS shall not, except as otherwise provided in subsection 5, employ a former public officer or employee of the local government or Purchasing Division, as applicable, except a clerical employee, as applicable, for 1 year after the termination of the officer's or employee's service or period of employment, if:

(a) *The amount of the contract exceeded \$25,000;*

(b) *The contract was awarded within the 12-month period immediately preceding the termination of the officer's or employee's service or period of employment; and*

(c) *The position held by the former public officer or employee at the time the contract was awarded allowed him to affect, influence or otherwise provide input with respect to the awarding of the contract.*

5. A public officer or employee may request *that* the Commission on Ethics ~~to~~ apply the relevant facts in his case to the provisions of subsection 3 *or 4, as applicable*, and determine whether relief from the strict application of ~~the~~ *those* provisions is proper. If the Commission on Ethics determines that relief from the strict application of the provisions of subsection 3 *or 4, as applicable*, is not contrary to:

(a) The best interests of the public;

(b) The continued integrity of State Government; and

(c) The code of ethical standards prescribed in NRS 281.481,

it may issue an opinion to that effect and grant such relief. The opinion of the Commission on Ethics in such a case is subject to judicial review.

1 ~~5.~~ 6. As used in this section, “regulation” has the meaning ascribed to it in
2 NRS 233B.038.