

Amendment No. 777

Senate Amendment to Senate Bill No. 393 First Reprint (BDR 43-109)

Proposed by: Senate Committee on Finance

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"/>	_____
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.

JLW/BJE



Date: 5/20/2007

S.B. No. 393—Makes various changes concerning transportation. (BDR 43-109)



SENATE BILL NO. 393—SENATOR NOLAN

MARCH 19, 2007

Referred to Committee on Transportation and Homeland Security

SUMMARY—Makes various changes concerning transportation.
(BDR ~~[43-109]~~ **58-109**)

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 transportation; requiring employees of the Nevada Transportation Authority to carry identification and wear specified clothing; requiring certain employees of the Authority to receive certain training; ~~[providing for an investigation, hearing and appeals process for complaints against an employee of the Authority;]~~ changing the name of the “Transportation Services Authority” to the “Nevada Transportation Authority”; requiring the Authority to appoint a Deputy Commissioner; providing the qualifications and duties of the Deputy Commissioner; prohibiting a member of the Authority from taking a position within a regulated industry or business for 1 year after service on the Authority; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Under existing law, the Transportation Services Authority regulates fully regulated carriers, operators of tow cars and brokers of regulated services as provided for in chapter 706 of NRS. (NRS 706.151) **Sections 11-13 and 16** of this bill change the name of the Transportation Services Authority to the Nevada Transportation Authority.

Section 5 of this bill requires employees of the Authority to carry proper identification and wear clothing specified by the Deputy Commissioner of the Authority. **Section 6** of this bill requires the Authority to adopt regulations specifying the training which its compliance enforcement officers must receive. ~~[Section 7 of this bill requires an investigation and hearing when a written complaint is received against an employee of the Authority and provides for an appeal process for the complainant and employee. The appeal process includes a second investigation, which must be conducted by the Investigation Division of the Department of Public Safety.]~~

Existing law allows the Authority to appoint a Deputy and employ other persons as needed. (NRS 706.176) **Section 15** of this bill requires the Authority to appoint a Deputy Commissioner and sets forth the qualifications and duties for the position. **Section 15** also requires the Authority to employ compliance enforcement officers and sets forth the duties for those positions.

Existing law prohibits certain persons who have worked for certain agencies of the State from being employed in certain fields or businesses for 1 year after they cease working for the

State. (NRS 281.236) **Section 17** of this bill expands that prohibition to members of the Authority.

Existing law provides that an employee designated as an inspector or as Manager of Transportation by the Authority is a peace officer and has police powers. (NRS 289.320) **Section 18** of this bill amends this provision to apply only to inspectors.

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

Section 1. Chapter 706 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this act.

Sec. 2. *"Chairman" means the person designated as Chairman of the Authority by the Governor pursuant to NRS 706.1512.*

Sec. 3. *"Compliance enforcement officer" means a person employed pursuant to NRS 706.176 whose duties include enforcing certain state statutes and regulations pertaining to motor carriers.*

Sec. 4. *"Deputy Commissioner" means the person appointed as Deputy Commissioner of the Authority pursuant to NRS 706.176.*

Sec. 5. *An employee of the Authority who enforces any provision of this chapter or regulations adopted pursuant thereto while on duty shall carry on his person proper identification and wear clothing that identifies him as an employee of the Authority as determined by the Deputy Commissioner.*

Sec. 6. *The Authority shall adopt regulations setting forth the training which a compliance enforcement officer employed by the Authority pursuant to NRS 706.176 must complete, including, without limitation, training in commercial vehicle safety inspections provided by the Nevada Highway Patrol.*

Sec. 7. ~~*(1. Upon receipt of a written complaint against an employee of the Authority acting in the course of his employment, the Deputy Commissioner shall conduct an investigation. The complainant and the employee against whom the complaint was made must be notified of the pending investigation. Upon completion of the investigation, the Deputy Commissioner shall submit to the Chairman a written report of his findings, including a written recommendation to the Chairman concerning the disposition of the complaint.*~~

~~*(2. The Chairman shall review the report and, after consulting with the other members of the Authority, decide if any action should be taken or if the complaint should be dismissed. If the Chairman determines that:*~~

~~*(a) The complaint should be dismissed, the Deputy Commissioner shall notify, by certified mail, the complainant and the employee against whom the complaint was made and provide the complainant with an opportunity to respond; or*~~

~~*(b) Action should be taken against the employee, the Deputy Commissioner shall:*~~

~~*(1) Notify, by certified mail, the complainant and the employee against whom the complaint was made;*~~

~~*(2) Send a copy of the complaint to the employee; and*~~

~~*(3) Provide the employee with an opportunity to respond.*~~

~~*3. The employee or complainant must file a response to the determination of the Chairman within 30 days after the date on which the notice was mailed. Within 20 days after receiving the response of the complainant or the employee against whom the complaint was made, the Deputy Commissioner shall schedule the matter for hearing before the Chairman and other members of the Authority*~~

~~and give notice to the complainant and employee of the date, time and place of the hearing.~~

~~4. Within 10 days after the date of the hearing, the Chairman shall issue a written order regarding his decision made in consultation with the other members of the Authority before whom the hearing was held as to the disposition of the complaint. A copy of the written order must be delivered to the complainant and the employee. Within 10 days after receiving a copy of the order, the complainant or the employee may appeal the decision to the Authority.~~

~~5. Upon receipt of a notice of appeal, the Deputy Commissioner shall forward the complaint to the Investigation Division of the Department of Public Safety. The Investigation Division shall conduct a second investigation. Upon completion of the investigation, the Investigation Division shall submit to the Chairman a written report of its findings, including a written recommendation to the Chairman concerning the disposition of the complaint.~~

~~6. The Chairman shall review the report and, after consulting with the other members of the Authority, issue an order affirming, modifying or reversing the initial order.~~

~~7. The complainant and employee must be notified in writing, by certified mail, of the final decision within 10 days after the order is issued.~~

~~8. The Authority shall adopt regulations to carry out the provisions of this section.] (Deleted by amendment.)~~

Sec. 8. NRS 706.011 is hereby amended to read as follows:

706.011 As used in NRS 706.011 to 706.791, inclusive, *and sections 2 to 7, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in NRS 706.013 to 706.146, inclusive, *and sections 2, 3 and 4 of this act* have the meanings ascribed to them in those sections.

Sec. 9. NRS 706.018 is hereby amended to read as follows:

706.018 "Authority" means the *Nevada* Transportation ~~{Services}~~ Authority created pursuant to NRS 706.1511.

Sec. 10. NRS 706.151 is hereby amended to read as follows:

706.151 1. It is hereby declared to be the purpose and policy of the Legislature in enacting this chapter:

(a) Except to the extent otherwise provided in NRS 706.881 to 706.885, inclusive, *and sections 2 to 7, inclusive, of this act*, to confer upon the Authority the power and to make it the duty of the Authority to regulate fully regulated carriers, operators of tow cars and brokers of regulated services to the extent provided in this chapter and to confer upon the Department of Motor Vehicles the power to license all motor carriers and to make it the duty of the Department of Motor Vehicles and the Department of Public Safety to enforce the provisions of this chapter and the regulations adopted by the Authority pursuant to it, to relieve the undue burdens on the highways arising by reason of the use of the highways by vehicles in a gainful occupation thereon.

(b) To provide for reasonable compensation for the use of the highways in gainful occupations, and enable the State of Nevada, by using license fees, to provide for the proper construction, maintenance and repair thereof, and thereby protect the safety and welfare of the traveling and shipping public in their use of the highways.

(c) To provide for fair and impartial regulation, to promote safe, adequate, economical and efficient service and to foster sound economic conditions in motor transportation.

(d) To encourage the establishment and maintenance of reasonable charges for:

(1) Intrastate transportation by fully regulated carriers; and

(2) Towing services performed without the prior consent of the owner of the vehicle or the person authorized by the owner to operate the vehicle, without unjust discriminations against or undue preferences or advantages being given to any motor carrier or applicant for a certificate of public convenience and necessity.

(e) To discourage any practices which would tend to increase or create competition that may be detrimental to the traveling and shipping public or the motor carrier business within this State.

2. All of the provisions of this chapter must be administered and enforced with a view to carrying out the declaration of policy contained in this section.

Sec. 11. NRS 706.1511 is hereby amended to read as follows:

706.1511 1. The *Nevada* Transportation ~~{Services}~~ Authority is hereby created.

2. The Authority consists of three members appointed by the Governor. After the initial term each member shall serve a term of 4 years.

3. The Governor shall appoint to the Authority members who have at least 2 years of experience in one or more of the following fields:

- (a) Accounting.
- (b) Business administration.
- (c) Economics.
- (d) Administrative law.
- (e) Transportation.
- (f) Professional engineering.

At least one but not more than two of the members appointed must be residents of Clark County.

4. Not more than two of the members may be:

- (a) Members of the same political party.
- (b) From the same field of experience.

5. All of the members must be persons who are independent of the industries regulated by the Authority. No elected officer of this State or any political subdivision is eligible for appointment.

6. The members of the Authority shall give their entire time to the business of the Authority and shall not pursue any other business or vocation or hold any other office of profit.

7. Each member of the Authority serves at the pleasure of the Governor.

Sec. 12. NRS 706.1513 is hereby amended to read as follows:

706.1513 The Authority may sue and be sued in the name of the *Nevada* Transportation ~~{Services}~~ Authority.

Sec. 13. NRS 706.1516 is hereby amended to read as follows:

706.1516 1. The *Nevada* Transportation ~~{Services}~~ Authority Regulatory Fund is hereby created as a special revenue fund. All money collected by the Authority pursuant to law must be deposited in the State Treasury for credit to the Fund.

2. Money in the Fund may be used only to defray the costs of:

- (a) Maintaining staff and equipment needed to regulate adequately persons subject to the jurisdiction of the Authority.
- (b) Participating in all proceedings relevant to the jurisdiction of the Authority.
- (c) Audits, inspections, investigations, publication of notices, reports and retaining consultants connected with that maintenance and participation.
- (d) The salaries, travel expenses and subsistence allowances of the members of the Authority.

3. All claims against the Fund must be paid as other claims against the State are paid.

4. The Authority must furnish upon request a statement showing the balance remaining in the Fund as of the close of the preceding fiscal year.

Sec. 14. NRS 706.1715 is hereby amended to read as follows:

706.1715 1. The Attorney General shall:

(a) Act as counsel and attorney for the Authority in all actions, proceedings and hearings.

(b) Prosecute in the name of the *Nevada* Transportation ~~{Services}~~ Authority all civil actions for the enforcement of this chapter and for the recovery of any penalty or forfeiture provided for therein.

(c) Generally aid the Authority in the performance of its duties and the enforcement of this chapter.

2. The Attorney General or any district attorney may prosecute any violation of this chapter or chapter 712 of NRS for which a criminal penalty is provided.

Sec. 15. NRS 706.176 is hereby amended to read as follows:

706.176 1. The Authority ~~{may}~~:

~~1. Appoint a Deputy who serves in the unclassified service of the State.~~

~~2. Employ} shall appoint a Deputy Commissioner who:~~

(a) Must be knowledgeable and experienced in public administration and fiscal management;

(b) Must be knowledgeable in the areas of motor carrier regulation by the Authority; and

(c) Must be independent of and have no pecuniary interest in any entity regulated by the Authority.

2. The Deputy Commissioner shall:

(a) Serve as Chief Financial Officer for the Authority and is responsible for directing the daily operation of the Authority, including, without limitation:

(1) Budget preparation;

(2) Administration;

(3) Human resources;

(4) Purchases and acquisitions made by the Authority; and

(5) Contracts and leases entered into by the Authority;

(b) Develop and implement policies and procedures to ensure the efficient operation of the Authority;

(c) Oversee:

~~*(1) The review of applications for {employment};*~~

~~*(2) Docketing procedures;*~~ *certificates, permits and modifications of tariffs;*

(2) The maintenance of a hearing calendar of all matters pending before the Authority; and

(3) Compliance with and enforcement of State statutes and regulations pertaining to motor carriers which are regulated by the Authority; and

(d) Authenticate documents and serve as custodian of all agency records.

3. The Deputy Commissioner is in the unclassified service of the State.

4. The Authority shall employ compliance enforcement officers whose duties shall include, without limitation, enforcement activities to ensure motor carriers are operating in compliance with State statutes and regulations, conducting operational inspections of motor carriers and investigating complaints against motor carriers.

5. The Authority may employ ~~{any other}~~ such other personnel as may be necessary.

Sec. 16. NRS 232.510 is hereby amended to read as follows:

232.510 1. The Department of Business and Industry is hereby created.

2. The Department consists of a Director and the following:

(a) Consumer Affairs Division.
(b) Division of Financial Institutions.
(c) Housing Division.
(d) Manufactured Housing Division.
(e) Real Estate Division.
(f) Division of Insurance.
(g) Division of Industrial Relations.
(h) Office of Labor Commissioner.
(i) Taxicab Authority.
(j) Nevada Athletic Commission.
(k) Office of the Nevada Attorney for Injured Workers.
(l) *Nevada* Transportation ~~[Services]~~ Authority.
(m) Division of Mortgage Lending.
(n) Any other office, commission, board, agency or entity created or placed within the Department pursuant to a specific statute, the budget approved by the Legislature or an executive order, or an entity whose budget or activities have been placed within the control of the Department by a specific statute.

Sec. 17. 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. *A business or industry governed by chapter 706 or 712 of NRS or regulations adopted pursuant thereto shall not employ a former member of the Nevada Transportation Authority, appointed pursuant to NRS 706.1511, for 1 year after the termination of the member's service on the Authority.*

4. 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 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.]~~ 5. A public officer or employee may request the Commission on Ethics to apply the relevant facts in his case to the provisions of subsection ~~[3]~~ 4 and determine whether relief from the strict application of the provisions is proper. If the Commission on Ethics determines that relief from the strict application of the provisions of subsection ~~[3]~~ 4 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,

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

3 ~~§- 6.~~ As used in this section, "regulation" has the meaning ascribed to it in
4 NRS 233B.038.

5 **Sec. 18.** NRS 289.320 is hereby amended to read as follows:

6 289.320 An employee of the Nevada Transportation ~~{Services}~~ Authority
7 whom it designates as an inspector ~~{or as Manager of Transportation}~~ is a peace
8 officer and has police power for the enforcement of the provisions of:

9 1. Chapters 706 and 712 of NRS and all regulations of the Nevada
10 Transportation ~~{Services}~~ Authority or the Department of Motor Vehicles
11 pertaining thereto; and

12 2. Chapter 482 of NRS and NRS 483.230, 483.350 and 483.530 to 483.620,
13 inclusive, for the purposes of carrying out the provisions of chapter 706 of NRS.

14 **Sec. 19.** On October 1, 2007, the State Controller shall transfer all assets and
15 liabilities from the Transportation Services Authority Regulatory Fund to the
16 Nevada Transportation Authority Regulatory Fund created pursuant to section 11 of
17 this act.

18 **Sec. 20.** The Legislative Counsel shall:

19 1. In preparing the reprint and supplements to the Nevada Revised Statutes,
20 appropriately change any references to an officer, agency or other entity whose
21 name is changed or whose responsibilities are transferred pursuant to the provisions
22 of this act to refer to the appropriate officer, agency or other entity.

23 2. In preparing supplements to the Nevada Administrative Code,
24 appropriately change any references to an officer, agency or other entity whose
25 name is changed or whose responsibilities are transferred pursuant to the provisions
26 of this act to refer to the appropriate officer, agency or other entity.

27 **Sec. 21.** This act becomes effective upon passage and approval for the
28 purpose of adopting regulations and conducting any preliminary activities
29 necessary to ensure that the provisions of this act are carried out in an orderly
30 fashion and on October 1, 2007, for all other purposes.