

ASSEMBLY BILL NO. 331—ASSEMBLYMEN SETTELMAYER; COBB,
GANSERT, GOEDHART, GOICOECHEA, GRADY, HAMBRICK,
STEWART AND WOODBURY

MARCH 13, 2009

JOINT SPONSORS: SENATORS MCGINNESS,
NOLAN AND WASHINGTON

Referred to Committee on Government Affairs

SUMMARY—Provides for the appointment of a Small Business
Ombudsman. (BDR 18-1082)

FISCAL NOTE: Effect on Local Government: Increases or Newly
Provides for Term of Imprisonment in County or City
Jail or Detention Facility.
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 the State Government; creating the Office of
the Small Business Ombudsman in the Office of the
Governor; providing for the appointment of the
Ombudsman; setting forth his duties; prohibiting a person
from willfully obstructing, misleading or attempting to
mislead the Ombudsman in the discharge of his duties;
providing a penalty; and providing other matters properly
relating thereto.

Legislative Counsel's Digest:

1 **Section 4** of this bill establishes the Office of the Small Business Ombudsman
2 in the Office of the Governor. The Governor is required to appoint the
3 Ombudsman. The Ombudsman is in the unclassified service of the State and serves
4 at the pleasure of the Governor. **Section 5** of this bill sets forth the duties of the
5 Ombudsman, which include: (1) ensuring that small businesses which are subject to
6 enforcement activities such as audits and on-site inspections by public agencies
7 have a means to comment on their interactions with the employees of the public
8 agency; (2) establishing a means of receiving the comments from affected small
9 businesses about their interactions with employees of public agencies during
10 enforcement activities; (3) establishing a rating system for public agencies; and (4)
11 filing certain reports based on substantiated comments from small businesses,



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12 findings of the Ombudsman and recommendations of the Ombudsman. **Section 7** of
13 this bill makes it a misdemeanor to mislead, attempt to mislead or obstruct the
14 Ombudsman in the discharge of his duties.

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

1 **Section 1.** Chapter 223 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 7, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 7, inclusive, of this act, unless*
5 *the context otherwise requires, "Ombudsman" means the Small*
6 *Business Ombudsman appointed pursuant to section 4 of this act.*

7 **Sec. 3.** *The provisions of NRS 223.085 do not apply to the*
8 *provisions of sections 2 to 7, inclusive, of this act.*

9 **Sec. 4. 1.** *The Office of the Small Business Ombudsman is*
10 *hereby established in the Office of the Governor.*

11 **2.** *The Governor shall appoint a person to serve as the*
12 *Ombudsman. The Ombudsman:*

13 **(a)** *Is in the unclassified service of the State; and*

14 **(b)** *Serves at the pleasure of the Governor.*

15 **3.** *The Ombudsman must not have any conflict of interest*
16 *relating to the performance of his duties pursuant to sections 2 to*
17 *7, inclusive, of this act.*

18 **Sec. 5.** *The Ombudsman shall:*

19 **1.** *Work in coordination with each public agency that has*
20 *regulatory authority over a small business in this State to ensure*
21 *that small businesses which are subject to enforcement-related*
22 *communication by employees of the public agency, including,*
23 *without limitation, audits or on-site inspections, are provided with*
24 *a means to comment on the enforcement activity conducted by the*
25 *employees of the public agency.*

26 **2.** *Establish a means to receive comments from a small*
27 *business regarding the actions of an employee of a public agency*
28 *conducting an enforcement activity, a means to refer comments*
29 *received to the director, administrator, chief or other person in*
30 *charge of the public agency when appropriate and a means to*
31 *keep the identity of the person or small business making the*
32 *comment confidential.*

33 **3.** *Establish a rating system for public agencies which*
34 *includes, without limitation, rating an agency on whether the*
35 *public agency has notified the small businesses which it regulates*
36 *about the Ombudsman and the purpose of the Office of the Small*
37 *Business Ombudsman and whether the public agency has adopted*



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1 *a policy against reprisal and retaliation for the filing of complaints*
2 *against a public agency with the Ombudsman.*

3 4. *Based upon substantiated comments received from small*
4 *businesses, prepare a report evaluating the enforcement activities*
5 *of the employees of public agencies, including a rating of the*
6 *responsiveness to small businesses of the regional and program*
7 *offices of each public agency, and submit it to:*

8 (a) *The Governor on or before January 30 of each year; and*

9 (b) *The Director of the Legislative Counsel Bureau for*
10 *transmittal to the Legislature on or before January 30 of each*
11 *odd-numbered year.*

12 5. *Provide an affected public agency with the opportunity to*
13 *comment on draft reports prepared pursuant to subsection 4*
14 *before the final report is submitted and include the comments of*
15 *the public agency with the final report.*

16 6. *Compile a report of the findings and recommendations of*
17 *the Ombudsman for each public agency and submit it to the*
18 *Governor and the director, administrator, chief or other person in*
19 *charge of each affected public agency on or before July 31 of each*
20 *year.*

21 7. *As used in this section:*

22 (a) *“Public agency” means an agency or political subdivision*
23 *of this State.*

24 (b) *“Small business” means a business entity, including,*
25 *without limitation, an affiliate of the business entity, which:*

26 (1) *Is independently owned and operated and not dominant*
27 *in its field;*

28 (2) *Employs not more than 50 full-time employees; and*

29 (3) *Has gross annual sales of less than \$5,000,000.*

30 Sec. 6. *The Ombudsman may employ such persons in the*
31 *unclassified service of the State as he determines to be necessary*
32 *to carry out the provisions of sections 2 to 7, inclusive, of this act.*

33 Sec. 7. *A person who willfully obstructs, misleads or attempts*
34 *to mislead the Ombudsman in the discharge of his duties pursuant*
35 *to sections 2 to 7, inclusive, of this act is guilty of a misdemeanor.*

36 Sec. 8. *This act becomes effective on January 1, 2010.*

