

Amendment No. 327

Assembly Amendment to Assembly Bill No. 331 (BDR 18-1082)

Proposed by: Assembly Committee on Government Affairs**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

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 dashed underlining*** is newly added transitory language.

CAF/JRS



Date: 4/11/2009

A.B. No. 331—Provides for the appointment of a Business Ombudsman.

(BDR 18-1082)



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:

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

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

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

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

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

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

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

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

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

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

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

29 3. *Establish a rating system for public agencies which includes, without*
30 *limitation, rating an agency on whether the public agency has notified the small*
31 *businesses which it regulates about the Ombudsman and the purpose of the*
32 *Office of the Small Business Ombudsman and whether the public agency has*
33 *adopted a policy against reprisal and retaliation for the filing of complaints*
34 *against a public agency with the Ombudsman.*

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

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

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

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

45 6. *Compile a report of the findings and recommendations of the*
46 *Ombudsman for each public agency and submit it to the Governor and the*
47 *director, administrator, chief or other person in charge of each affected public*
48 *agency on or before July 31 of each year.*

49 7. *As used in this section ~~is "public"~~;*

1 (a) "Public agency" means an agency or political subdivision of this State.

2 (b) "Small business" means a business entity, including, without limitation,
3 an affiliate of the business entity, which:

4 (1) Is independently owned and operated and not dominant in its field;

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

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

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

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

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