

Amendment No. 758

Senate Amendment to Assembly Bill No. 463 First Reprint (BDR 23-1057)

Proposed by: Senate Committee on Legislative Operations and Elections**Amends:** Summary: No 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.

KCR



Date: 5/15/2009

A.B. No. 463—Restricts a department, division or other agency of this State from employing a person as a consultant. (BDR 23-1057)



ASSEMBLY BILL NO. 463--ASSEMBLYWOMAN SMITH

MARCH 16, 2009

Referred to Committee on Government Affairs

SUMMARY—Restricts a department, division or other agency of this State from employing a person as a consultant. (BDR 23-1057)

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 governmental administration; restricting a department, division or other agency of this State from employing a person as a consultant; ***providing certain exceptions;*** requiring certain entities to submit to the Interim Finance Committee a report concerning each consultant employed by the entity; requiring that contracts with ~~consultants and~~ temporary employment services be awarded by open competitive bidding; requiring that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency; requiring the Legislative Auditor to conduct an audit concerning the use of contracts with consultants by state agencies; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill restricts a department, division or other agency of this State from employing a person as a consultant for the agency. **Section 1** requires the Interim Finance Committee to approve the employment of a consultant under certain circumstances and limits the approval of the employment of the person as a consultant if the person is a former employee of a department, division or other agency of this State and at least 1 year has not expired before the person is employed as a consultant. **Section 1** also requires each board, commission, school district and institution of the Nevada System of Higher Education to submit to the Interim Finance Committee, at least once every 6 months, a report concerning each consultant employed by the entity. **Section 1** also requires that contracts with ~~consultants and~~ temporary employment services be awarded by open competitive bidding. **Section 1 further provides that certain exceptions apply for the employment of persons for a period of less than 4 months under certain conditions and for the employment of certain persons by the Department of Transportation for transportation projects that are solely federally funded.** **Section 2.5** of this bill requires that information concerning the use of consultants and temporary employment services be included and explained in the budget process by a state agency. **Section 2.7** of this bill requires the Legislative Auditor to conduct an audit of the use by agencies of the Executive Branch of State Government of contracts with consultants.

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

Section 1. Chapter 284 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in ~~subsection 6,~~ this section, a department, division or other agency of this State shall not employ, by contract or otherwise, a person to provide services as a consultant for the agency if:

(a) The person is a current employee of an agency of this State;

(b) The person is a former employee of an agency of this State and less than 1 year has expired since the termination of his employment with the State; ~~for~~

(c) ~~The~~ Except as otherwise provided in paragraph (d), the term of the contract is for more than 2 years, or is amended or otherwise extended beyond 2 years ~~it~~; or

(d) The person is employed by the Department of Transportation for a transportation project that is solely federally funded and the term of the contract is for more than 4 years, or is amended or otherwise extended beyond 4 years,

unless, before the person is employed by the agency, the Interim Finance Committee approves the employment of the person.

2. The provisions of paragraph (b) of subsection 1 apply to employment through a temporary employment service. A temporary employment service providing employees for a state agency shall provide the agency with the names of the employees to be provided to the agency. The Interim Finance Committee shall not approve the employment of a consultant pursuant to paragraph (b) of subsection 1 unless the Interim Finance Committee determines that one or more of the following circumstances exist:

(a) The person provides services that are not provided by any other employee of the agency or for which a critical labor shortage exists; or

(b) A short-term need or unusual economic circumstance exists for the agency to employ the person as a consultant.

3. A department, division or other agency of this State may employ a person pursuant to paragraph (a) or (b) of subsection 1 without obtaining the approval of the Interim Finance Committee if the term of employment is for less than 4 months and the executive head of the department, division or agency determines that an emergency exists which necessitates the employment. If a department, division or agency employs a person pursuant to this subsection, the department, division or agency shall include in the report to the Interim Finance Committee pursuant to subsection 4 a description of the emergency.

4. ~~Except as otherwise provided in subsection 6,~~ 7, a department, division or other agency of this State shall report to the Interim Finance Committee whenever it employs, by contract or otherwise, a person to provide services as a consultant for the agency who is a former employee of a department, division or other agency of this State.

~~4,~~ 5. Except as otherwise provided in subsection ~~6,~~ 7, a department, division or other agency of this State shall not contract with a ~~consultant or a~~ temporary employment service unless the contracting process is controlled by rules of open competitive bidding.

~~5,~~ 6. Each board or commission of this State, each school district in this State and each institution of the Nevada System of Higher Education that employs a consultant shall, at least once every 6 months, submit to the Interim Finance Committee a report setting forth:

1 (a) The number of consultants employed by the board, commission, school
2 district or institution;

3 (b) The purpose for which the board, commission, school district or
4 institution employs each consultant;

5 (c) The amount of money or other remuneration received by each consultant
6 from the board, commission, school district or institution; and

7 (d) The length of time each consultant has been employed by the board,
8 commission, school district or institution.

9 ~~6.~~ 7. The provisions of subsections 1 to ~~4~~ 5, inclusive, do not apply to
10 the :

11 (a) Nevada System of Higher Education or a board or commission of this
12 State.

13 (b) Employment of professional engineers by the Department of
14 Transportation if those engineers are employed for a transportation project that
15 is solely federally funded.

16 ~~7.~~ 8. For the purposes of this section, "consultant" includes any person
17 employed by a business or other entity that is providing consulting services if the
18 person will be performing or producing the work for which the business or entity
19 is employed.

20 Sec. 2. NRS 218.6827 is hereby amended to read as follows:

21 218.6827 1. Except as otherwise provided in subsection 2, the Interim
22 Finance Committee may exercise the powers conferred upon it by law only when
23 the Legislature is not in regular or special session.

24 2. During a regular or special session, the Interim Finance Committee may
25 also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2
26 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050,
27 subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142,
28 subsection 6 of NRS 341.145, NRS 353.220, 353.224, 353.2705 to 353.2771,
29 inclusive, and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS
30 428.375, 439.620, 439.630, 445B.830 and 538.650 ~~H~~ and section 1 of this act. In
31 performing those duties, the Senate Standing Committee on Finance and the
32 Assembly Standing Committee on Ways and Means may meet separately and
33 transmit the results of their respective votes to the Chairman of the Interim Finance
34 Committee to determine the action of the Interim Finance Committee as a whole.

35 3. The Chairman of the Interim Finance Committee may appoint a
36 subcommittee consisting of six members of the Committee to review and make
37 recommendations to the Committee on matters of the State Public Works Board
38 that require prior approval of the Interim Finance Committee pursuant to subsection
39 3 of NRS 341.090, NRS 341.142 and subsection 6 of NRS 341.145. If the
40 Chairman appoints such a subcommittee:

41 (a) The Chairman shall designate one of the members of the subcommittee to
42 serve as the chairman of the subcommittee;

43 (b) The subcommittee shall meet throughout the year at the times and places
44 specified by the call of the chairman of the subcommittee; and

45 (c) The Director of the Legislative Counsel Bureau or his designee shall act as
46 the nonvoting recording secretary of the subcommittee.

47 Sec. 2.5. NRS 353.210 is hereby amended to read as follows:

48 353.210 1. Except as otherwise provided in subsection 6, on or before
49 September 1 of each even-numbered year, all departments, institutions and other
50 agencies of the Executive Department of the State Government, and all agencies of
51 the Executive Department of the State Government receiving state money, fees or
52 other money under the authority of the State, including those operating on money

designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

(a) The number of positions within the department, institution or agency that have been vacant for at least 12 months, the number of months each such position has been vacant and the reasons for each such vacancy; ~~and~~

(b) *Any existing contracts the department, institution or agency has with consultants or temporary employment services, the proposed expenditures for such contracts in the next 2 fiscal years and the reasons for the use of such consultants or services; and*

(c) Estimates of their expenditure requirements, together with all anticipated income from fees and all other sources, for the next 2 fiscal years compared with the corresponding figures of the last completed fiscal year and the estimated figures for the current fiscal year.

2. The Chief shall direct that one copy of the forms submitted pursuant to subsection 1, accompanied by every supporting schedule and any other related material, be delivered directly to the Fiscal Analysis Division of the Legislative Counsel Bureau on or before September 1 of each even-numbered year.

3. The Budget Division of the Department of Administration shall give advance notice to the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference between the Budget Division of the Department of Administration and personnel of other state agencies regarding budget estimates. A Fiscal Analyst of the Legislative Counsel Bureau or his designated representative may attend any such conference.

4. The estimates of expenditure requirements submitted pursuant to subsection 1 must be classified to set forth the data of funds, organizational units, and the character and objects of expenditures, and must include a mission statement and measurement indicators for each program. The organizational units may be subclassified by functions and activities, or in any other manner at the discretion of the Chief.

5. If any department, institution or other agency of the Executive Department of the State Government, whether its money is derived from state money or from other money collected under the authority of the State, fails or neglects to submit estimates of its expenditure requirements as provided in this section, the Chief may, from any data at hand in his office or which he may examine or obtain elsewhere, make and enter a proposed budget for the department, institution or agency in accordance with the data.

6. Agencies, bureaus, commissions and officers of the Legislative Department, the Public Employees' Retirement System and the Judicial Department of the State Government shall submit to the Chief for his information in preparing the proposed executive budget the budgets which they propose to submit to the Legislature.

Sec. 2.7. 1. The Legislative Auditor shall conduct an audit concerning the use by agencies of the Executive Branch of State Government of contracts with consultants. The State Controller shall provide such information as is requested by the Legislative Auditor to assist with the completion of the audit.

2. The Legislative Auditor shall present a final written report of the audit to the Audit Subcommittee of the Legislative Commission not later than February 7, 2011.

3. The provisions of NRS 218.737 to 218.893, inclusive, apply to the audit performed pursuant to this section.

Sec. 3. The amendatory provisions of section 1 of this act do not apply to a contract of employment specified in that section that is entered into or renewed before the effective date of this act.

1 **Sec. 4.** This act becomes effective upon passage and approval.