

## Amendment No. 514

Assembly Amendment to Assembly Bill No. 406

(BDR 18-584)

**Proposed by:** Assemblywoman Kirkpatrick**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 underlining* is newly added transitory language.

CAF/JRS



Date: 4/25/2011

A.B. No. 406—Creates the Evaluation and Sunset Advisory Commission.  
(BDR 18-584)



## ASSEMBLY BILL NO. 406—ASSEMBLYMAN HANSEN

MARCH 21, 2011

Referred to Committee on Government Affairs

SUMMARY—~~[Creates the Evaluation and Sunset Advisory Commission.]~~ Revises provisions relating to the conducting of executive branch audits and investigations. (BDR 18-584)

FISCAL NOTE: Effect on Local Government: No.  
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 ~~[commissions; creating the Evaluation and Sunset Advisory Commission; providing for its membership; requiring the Commission to evaluate the necessity and efficacy of all agencies, boards and commissions and statutory tax exemptions, abatements and earmarks in this State.]~~ state agencies; authorizing the Governor to require the Chief of the Division of Internal Audits of the Department of Administration to conduct certain audits and investigations of executive branch agencies without the approval of the Executive Branch Audit Committee; authorizing the Chief to conduct investigations; deleting provisions which prohibit the Division from conducting investigations; requiring executive branch agencies to cooperate in an audit or investigation; exempting certain audits and investigations from being included in certain reports to the Committee; requiring certain documents relating to investigations of executive branch agencies to be kept confidential under certain circumstances; and providing other matters properly relating thereto.

## Legislative Counsel's Digest:

Existing law creates the Executive Branch Audit Committee, requires the Chief of the Division of Internal Audits of the Department of Administration to submit annual plans to audit executive branch agencies to the Committee, and requires the Committee to approve those plans. (NRS 353A.038, 353A.045) Further, existing law prohibits the Division from conducting investigations. (NRS 353A.055) Section ~~(2)~~ 1 of this bill ~~creates the Evaluation and Sunset Advisory Commission and sets forth the details regarding the members of the Commission, who are appointed by the Governor and the Majority and Minority Leaders of each House of the Legislature. Section 5 of this bill sets forth the duties of the Commission which include, without limitation, reviewing and evaluating all agencies, boards and commissions and statutory tax exemptions, abatements and earmarks in this State for necessity and efficacy and for duplication by other agencies, boards and commissions of the Federal Government, this State or local governments in this State. Section 4 of this bill~~

~~requires the Commission to meet at least bimonthly and to annually report its findings and recommendations to the Governor and the Legislature. Section 6 of this bill authorizes the Commission to apply for and receive gifts, grants, contributions or other money to carry out its duties.], authorizes the Governor to require the Chief to conduct an audit or an investigation of an executive branch agency that is not in the plan the Chief submitted and without the approval of the Committee. Section 2 of this bill authorizes the Chief to conduct investigations, as well as audits, and requires the Chief to conduct the audits or investigations required by the Governor as well as those approved by the Committee. Section 3 of this bill eliminates the prohibition against the Division conducting investigations.~~

Existing law requires the Chief of the Division of Internal Audits of the Department of Administration to submit an annual report to the Executive Branch Audit Committee which includes all final reports of audits conducted in the preceding year. (NRS 353A.065) Section 4 of this bill prohibits the inclusion in that report of any reference to audits or investigations required by the Governor. Section 6 of this bill requires that the final reports of an audit or investigation required by the Governor be given to the Governor and not the Committee.

Section 5 of this bill requires all executive branch agencies to cooperate with the Chief or the authorized representative of the Chief in an audit or investigation. Section 8 of this bill requires that the working documents from an investigation are to be kept confidential under certain circumstances.

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

**Delete existing sections 1 through 8 of this bill and replace with the following new sections 1 through 9:**

**Section 1. NRS 353A.038 is hereby amended to read as follows:**

353A.038 1. The Executive Branch Audit Committee is hereby created.

2. The Committee must consist of one member who is a representative of the general public appointed by the Governor, who has at least 5 years of progressively responsible experience in the field of auditing and who does not engage in business with any agency, and the following ex officio members:

- (a) The Governor, who shall serve as Chair of the Committee;
- (b) The Lieutenant Governor;
- (c) The Secretary of State;
- (d) The State Treasurer;
- (e) The State Controller; and
- (f) The Attorney General.

3. The member of the Committee who is a representative of the general public is entitled to receive a salary of \$80 per day while engaged in the business of the Committee.

4. While engaged in the business of the Committee, each member of the Committee is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

5. The Committee shall:

- (a) Adopt policies and procedures for the operation of the Division;
- (b) Approve, with or without revision, each annual plan for auditing agencies presented by the Chief pursuant to NRS 353A.045, and any revisions to such a plan, before the plan is implemented; and

(c) Approve, with or without revision, each annual report submitted by the Chief pursuant to NRS 353A.065.

**6. The Governor, as the Chair of the Committee and without the approval of the Committee, may direct the Chief to perform additional audits or investigations of executive branch agencies not included in the plan presented pursuant to NRS 353A.045.**

**Sec. 2. NRS 353A.045 is hereby amended to read as follows:**

353A.045 The Chief shall:

1. Report to the Director.

2. Develop long-term and annual work plans to be based on the results of periodic documented risk assessments. The annual work plan must list the agencies to which the Division will provide training and assistance and be submitted to the Director for approval. Such agencies must not include:

(a) A board created by the provisions of NRS 590.485 and chapters 623 to 625A, inclusive, 628, 630 to 644, inclusive, 648, 654 and 656 of NRS.

(b) The Nevada System of Higher Education.

(c) The Public Employees' Retirement System.

(d) The Housing Division of the Department of Business and Industry.

(e) The Colorado River Commission of Nevada.

3. Provide a copy of the approved annual work plan to the Legislative Auditor.

4. In consultation with the Director, prepare a plan for auditing or investigating executive branch agencies for each fiscal year and present the plan to the Committee for its review and approval. Each plan for auditing or investigating must:

(a) State the agencies which will be audited ~~or~~ or investigated, the proposed scope and assignment of those audits or investigations and the related resources which will be used for those audits ~~or~~ or investigations; and

(b) Ensure that the internal accounting, administrative controls and financial management of each agency are reviewed periodically.

5. Perform the audits or investigations of the programs and activities of the agencies in accordance with the plan approved pursuant to subsection 5 of NRS 353A.038 and prepare audit or investigation reports of his or her findings.

**6. Perform additional audits or investigations of executive branch agencies if required by the Governor pursuant to subsection 6 of NRS 353A.038.**

**7.** Review each agency that is audited or investigated pursuant to subsection 5 or 6 and advise those agencies concerning internal accounting, administrative controls and financial management.

~~7.8~~ **8.** Submit to each agency that is audited or investigated pursuant to subsection 5 or 6 any analyses, appraisals and recommendations concerning:

(a) The adequacy of the internal accounting and administrative controls of the agency; and

(b) The efficiency and effectiveness of the management of the agency.

~~8.9~~ **9.** Report any possible abuses, illegal actions, errors, omissions and conflicts of interest of which the Division becomes aware during the performance of an audit ~~or~~ or investigation.

~~9.10~~ **10.** Adopt the standards of the Institute of Internal Auditors for conducting and reporting on internal audits.

~~10.11~~ **11.** Consult with the Legislative Auditor concerning the plan for auditing and the scope of audits to avoid duplication of effort and undue disruption of the functions of agencies that are audited pursuant to subsection 5 ~~or~~ or 6.

1 12. Appoint a Manager of Internal Controls.

2 Sec. 3. NRS 353A.055 is hereby amended to read as follows:

3 353A.055 1. The Division shall:

4 (a) Determine the adequacy of the system of internal accounting,  
5 administrative control and financial management of each agency to which the  
6 Division provides training and assistance.

7 (b) Adopt regulations, approved by the Committee, requiring the provision of  
8 training to any employee of an agency who is responsible for administering  
9 budgetary accounts. The training must address:

10 (1) The laws and regulations of this state and the Federal Government  
11 applicable to the operations of the agency.

12 (2) Internal accounting, administrative controls and financial management.

13 (3) Techniques to address the adequacy of controls of the agency.

14 (c) Develop and administer a procedure to evaluate the effectiveness of any  
15 training provided to an agency.

16 (d) Provide technical assistance to agencies in developing and carrying out  
17 their systems of internal accounting, administrative controls and financial  
18 management.

19 (e) Prepare separate reports for each agency which summarize the results of the  
20 training and assistance provided to the agency.

21 2. The Division shall not ~~+~~

22 ~~—(a) Provide~~ provide any services to an agency that is under the direct control  
23 or administration of a constitutional officer unless the constitutional officer requests  
24 such services.

25 ~~[(b) Conduct investigations, but shall refer such matters to the appropriate~~  
26 ~~agency.]~~

27 Sec. 4. NRS 353A.065 is hereby amended to read as follows:

28 353A.065 1. Within 90 days after the end of each fiscal year, the Chief shall  
29 submit an annual report to the Committee for its approval which:

30 (a) Lists the agencies to which the Division provided training and assistance;

31 (b) Separately lists any other activities undertaken by the Division that are  
32 related to the provision of training and assistance and the status of those activities;

33 (c) ~~[(Contains)]~~ Except as otherwise provided in subsection 3, contains a list of  
34 the final reports that have been submitted pursuant to NRS 353A.085;

35 (d) ~~[(Contains)]~~ Except as otherwise provided in subsection 3, contains a  
36 separate list of any other activities undertaken by the Division that are related to the  
37 final reports submitted pursuant to NRS 353A.085 and the status of those activities;  
38 and

39 (e) Describes the accomplishments of the Division.

40 2. The Chief shall provide a copy of the annual report to the:

41 (a) Committee;

42 (b) Director;

43 (c) Interim Finance Committee; and

44 (d) Legislative Auditor.

45 3. The annual report submitted by the Chief to the Committee pursuant to  
46 this section must not include information about any audit or investigation  
47 required by the Governor pursuant to subsection 6 of NRS 353A.038.

48 Sec. 5. NRS 353A.075 is hereby amended to read as follows:

49 353A.075 1. Except as otherwise provided in subsection 2, upon the request  
50 of the Chief or the Chief's authorized representative, all officers and employees of  
51 each executive branch agency shall ~~make~~ make :

1 (a) Make available to the Division all books, accounts, claims, reports,  
2 vouchers or other records of information, confidential or otherwise, in the  
3 possession or control of the agency.

4 (b) Cooperate with the Chief or the Chief's authorized representative in any  
5 audit or investigation conducted by the Chief or the Division.

6 2. This section does not authorize the Chief or the Chief's authorized  
7 representative to have access to any books, accounts, claims, reports, vouchers or  
8 other records or information of any business or activity which NRS 665.130 and  
9 668.085 require to be kept confidential.

10 **Sec. 6. NRS 353A.085 is hereby amended to read as follows:**

11 353A.085 1. After each audit or investigation is completed, the Chief or the  
12 Chief's designated representative shall submit a copy of the preliminary findings  
13 and recommendations of the audit or investigation to the head of the audited or  
14 investigated agency. Within 10 working days after receipt of the preliminary  
15 findings and recommendations, the head of the audited or investigated agency shall  
16 submit to the Chief a written statement of acceptance, explanation or rebuttal  
17 concerning the findings. The Chief shall include the statement of the head of the  
18 agency in the final report.

19 2. ~~[(The)]~~ Except as otherwise provided in subsection 4, the Chief shall submit  
20 a final report to the Committee and the head of the audited or investigated agency.

21 3. Except as otherwise provided in NRS 353A.031 to 353A.100, inclusive,  
22 the Chief shall not disclose the content of any audit or investigation before the final  
23 report is submitted to the Committee pursuant to subsection 2 except in the case of  
24 alleged illegal acts which must be reported immediately upon discovery.

25 4. If the Chief conducts an audit or investigation required by the Governor  
26 pursuant to subsection 6 of NRS 353A.038, the Chief shall submit the final report  
27 to the Governor and the head of the audited or investigated agency.

28 **Sec. 7. NRS 353A.090 is hereby amended to read as follows:**

29 353A.090 Within 6 months after the date that the final report is submitted  
30 pursuant to NRS 353A.085, if corrective action is recommended for an agency, the  
31 Chief shall determine whether appropriate corrective actions are being taken and  
32 whether those actions are achieving the desired result. The Chief shall inform the  
33 Committee and the head of the audited or investigated agency of the effect of any  
34 corrective actions taken.

35 **Sec. 8. NRS 353A.100 is hereby amended to read as follows:**

36 353A.100 1. The Chief shall keep or cause to be kept a complete file of  
37 copies of all reports of audits, examinations, investigations and all other reports or  
38 releases issued by the Chief.

39 2. All working papers from an audit or investigation are confidential and may  
40 be destroyed by the Chief 5 years after the report is issued, except that the Chief:

41 (a) Shall release such working papers when subpoenaed by a court of  
42 competent jurisdiction or when required to do so pursuant to NRS 239.0115;

43 (b) Shall make such working papers available to the Legislative Auditor upon  
44 his or her request; and

45 (c) May make such working papers available for inspection by an authorized  
46 representative of any other governmental entity for a matter officially before him or  
47 her.

48 **Sec. 9. This act becomes effective on July 1, 2011.**