

Amendment No. 189

Senate Amendment to Senate Bill No. 81 (BDR 31-396)

Proposed by: Senate Committee on Government Affairs**Amends:** Summary: No 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.

SJA/HAC



Date: 4/10/2011

S.B. No. 81—Makes various changes relating to state financial administration.
(BDR 31-396)



SENATE BILL NO. 81—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE STATE CONTROLLER)

PREFILED DECEMBER 15, 2010

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to state financial administration.
(BDR 31-396)

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 state financial administration; ~~[requiring professional and occupational licensing agencies to deny the issuance or renewal of licenses possessed by certain persons who owe debts to the State; requiring the State Controller to develop and operate with financial institutions a data match system for the collection of certain debts owed to state agencies;]~~ revising the statutes of limitation for the State Controller to take action regarding the collection of certain debts owed to state agencies; providing for the electronic payment of certain payments; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law authorizes an agency of this State to refuse to conduct a transaction with a person who owes a debt to an agency until the debt is paid or the person enters into an agreement to pay the debt in installments. (NRS 353C.128) Section 2 of this bill: (1) requires the State Controller to establish a list to notify all professional and occupation licensing authorities in this State that a person who is applying for the issuance or renewal of a license, certification, registration, permit or other similar authorization which grants the person authority to engage in a profession or occupation has failed to pay a debt owed to the State; and (2) provides that a licensing authority shall not issue or renew such a license, certification, registration, permit or authorization to a person whose name is included on the list.]~~

~~[Section 2 of this bill requires the State Controller to develop and operate a system for matching data to collect outstanding debts. The State Controller and financial institutions located in this State may use the system developed for the collection of child support to fulfill the requirements of section 2. Financial institutions must provide to the State Controller information on persons who maintain accounts at the financial institution and are identified by the State Controller as owing an outstanding debt to the State. Financial institutions are then required to encumber assets held in the financial institution by the debtors to pay their debts.]~~

Existing law sets forth statutes of limitation for when the State Controller may take certain action to collect debts owed to the State. (NRS 353C.140, 353C.170, 353C.180, 353C.210) Sections 4-7 of this bill amend ~~the~~ those statutes of limitation ~~for when the State Controller may take certain action to collect debts owed to the State.~~

21 **Section 8** of this bill requires the State Controller to pay accounts payable electronically
22 unless doing so would cause undue hardship to the payee.

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

1 **Section 1.** ~~[Chapter 353C of NRS is hereby amended by adding thereto the~~
2 ~~provisions set forth as sections 2 and 3 of this act.]~~ (Deleted by amendment.)

3 **Sec. 2.** ~~{1. The State Controller shall:~~

4 ~~—(a) Establish and maintain a list of persons who owe a debt to an agency;~~
5 ~~and~~

6 ~~—(b) Make the list available to all licensing agencies.~~

7 ~~2. A licensing agency shall not issue a license to any person or renew the~~
8 ~~license of any person unless and until the licensing agency confirms that the~~
9 ~~name of the person is not included on the list established by the State Controller~~
10 ~~pursuant to subsection 1.~~

11 ~~3. The State Controller shall adopt such regulations as are necessary or~~
12 ~~advisable to carry out the provisions of this section.~~

13 ~~4. As used in this section:~~

14 ~~—(a) "License" means any license, certification, registration, permit or other~~
15 ~~similar authorization that grants a person the authority to engage in a profession~~
16 ~~or occupation in this State.~~

17 ~~—(b) "Licensing agency" means any agency that issues or renews any license.]~~
18 (Deleted by amendment.)

19 **Sec. 3.** ~~{1. The State Controller shall enter into agreements with financial~~
20 ~~institutions doing business in this State to coordinate the development and~~
21 ~~operation of a system for matching data, using automated exchanges of data to~~
22 ~~the maximum extent feasible. If a financial institution has developed and~~
23 ~~operated a system for matching data pursuant to NRS 425.460, and such a system~~
24 ~~is approved by the State Controller, the system satisfies the requirements of this~~
25 ~~section.~~

26 ~~2. In addition to any other remedy provided for in this chapter, the State~~
27 ~~Controller may use the system for matching data developed and operated~~
28 ~~pursuant to subsection 1 to collect a debt, plus any applicable penalties and~~
29 ~~interest.~~

30 ~~3. A financial institution in this State shall:~~

31 ~~—(a) Cooperate with the State Controller in carrying out the provisions of~~
32 ~~subsection 1.~~

33 ~~—(b) Use the system to provide to the State Controller for each calendar~~
34 ~~quarter the name, address of record, social security number or other number~~
35 ~~assigned for taxpayer identification of each person who maintains an account at~~
36 ~~the financial institution, as identified by the State Controller by name and social~~
37 ~~security number or other number assigned for taxpayer identification.~~

38 ~~—(c) In response to the receipt from the State Controller of notification of debt~~
39 ~~that a person owes the State, encumber all assets of the person held by the~~
40 ~~financial institution on behalf of the State Controller and surrender those assets~~
41 ~~to the State Controller. A financial institution is not required to encumber or~~
42 ~~surrender any assets received by the financial institution on behalf of the person~~
43 ~~after the financial institution received the notice of the debt from the State~~
44 ~~Controller.~~

~~4. A financial institution may not be held liable in any civil or criminal action for:~~

~~(a) Any disclosure of information to the State Controller pursuant to this section;~~

~~(b) Encumbering or surrendering any assets held by the financial institution pursuant to this section;~~

~~(c) Any other action taken in good faith to comply with the requirements of this section;~~

~~5. If a court issues an order to return to a person any assets surrendered by a financial institution pursuant to subsection 3, the State Controller is not liable to the person for any of those assets that have been provided to the State Controller in accordance with the order for the payment of a debt.~~

~~6. All information provided to the State Controller by a financial institution pursuant to this section is confidential and may only be used by the State Controller for use in the collection of a debt owed to the State.~~

~~7. As used in this section, "financial institution" has the meaning ascribed to it in NRS 229A.030.~~ **(Deleted by amendment.)**

Sec. 4. NRS 353C.140 is hereby amended to read as follows:

353C.140 If a person has not paid a debt that the person owes to an agency, the Attorney General, upon the request of the State Controller:

1. Except as otherwise provided in this section, shall bring an action in a court of competent jurisdiction; or

2. If the action is a small claim subject to chapter 73 of NRS, may bring an action in a court of competent jurisdiction,

on behalf of this state to collect the debt, plus any applicable penalties and interest. The action must be brought not later than ~~4~~ ~~6~~ 4 years after the date on which the debt became due or within ~~5~~ ~~6~~ 4 years after the date on which a certificate of liability was last recorded pursuant to NRS 353C.180, as appropriate.

Sec. 5. NRS 353C.170 is hereby amended to read as follows:

353C.170 1. An abstract of the judgment entered pursuant to NRS 353C.160, or a copy thereof, may be recorded in the office of the county recorder of any county.

2. From the time of its recordation, the judgment becomes a lien upon all real and personal property situated in the county that is owned by the judgment debtor, or which the debtor may afterward acquire, until the lien expires. The lien has the force, effect and priority of a judgment lien and continues for ~~5~~ ~~6~~ 4 years after the date of the judgment so entered by the court clerk unless sooner released or otherwise discharged.

3. Within ~~5~~ ~~6~~ 4 years after the date of the recording of the judgment or within ~~5~~ ~~6~~ 4 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording an affidavit of renewal in the office of the county recorder. From the date of recording, the lien is extended for ~~5~~ ~~6~~ 4 years to all real and personal property situated in the county that is owned by the judgment debtor or acquired by the judgment debtor afterwards, unless the lien is sooner released or otherwise discharged.

Sec. 6. NRS 353C.180 is hereby amended to read as follows:

353C.180 1. In addition to any other remedy provided for in this chapter, the State Controller may, within ~~4~~ ~~6~~ 4 years after the date that a debt becomes due, record a certificate of liability in the office of a county recorder which states:

(a) The amount of the debt, together with any interest or penalties due thereon;

(b) The name and address of the debtor, as the name and address of the debtor appear on the records of the State Controller;

(c) That the State Controller has complied with all procedures required by law for determining the amount of the debt; and

(d) That the State Controller has notified the debtor in accordance with subsection 2.

2. The State Controller shall, not less than 15 days before the date on which he or she intends to file the certificate, notify the debtor of the State Controller's intention to file the certificate. The notification must be sent by certified mail to the last known address of the debtor and must include the name of the agency to which the debt is owed, the amount sought to be recovered and the date on which the certificate will be filed with the county recorder.

3. From the time of the recording of the certificate, the amount of the debt, including interest which accrues on the debt after the recording of the certificate, constitutes a lien upon all real and personal property situated in the county in which the certificate was recorded that is owned by the debtor or acquired by the debtor afterwards and before the lien expires. The lien has the force, effect and priority of a judgment lien on all real and personal property situated in the county in which the certificate was recorded and continues for ~~15~~ ~~16~~ 4 years after the date of recording unless sooner released or otherwise discharged.

4. Within ~~15~~ ~~16~~ 4 years after the date of the recording of the certificate or within ~~15~~ ~~16~~ 4 years after the date of the last extension of the lien pursuant to this subsection, the lien may be extended by recording a new certificate in the office of the county recorder. From the date of recording, the lien is extended for ~~15~~ ~~16~~ 4 years to all real and personal property situated in the county that is owned by the debtor or acquired by the debtor afterwards, unless the lien is sooner released or otherwise discharged.

Sec. 7. NRS 353C.210 is hereby amended to read as follows:

353C.210 1. Notwithstanding any specific statute to the contrary, the State Controller may, in addition to any other remedy provided for in this chapter, give notice of the amount of a debt owed to this State and a demand to transmit to any person, including, without limitation, any officer, agency or political subdivision of this state, who has in his or her possession or under his or her control any credits or other personal property belonging to the debtor or who owes any debts to the debtor that remain unpaid. The notice and demand to transmit must be delivered personally or by certified or registered mail:

(a) Not later than ~~4~~ ~~16~~ years after the debt became due; or

(b) Not later than ~~16~~ 4 years after the last recording of an abstract of judgment pursuant to NRS 353C.170 or a certificate of liability pursuant to NRS 353C.180.

2. If such notice is given to an officer or agency of this state, the notice must be delivered before the State Controller may file a claim pursuant to NRS 353C.190 on behalf of the debtor.

3. An agency that receives a notice and demand to transmit pursuant to this section may satisfy any debt owed to it by the debtor before it honors the notice and demand to transmit. If the agency is holding a bond or other property of the debtor as security for debts owed or that may become due and owing by the debtor, the agency is not required to transmit the amount of the bond or other property unless the agency determines that holding the bond or other property of the debtor as security is no longer required.

4. Except as otherwise provided by specific statute, a person who receives a demand to transmit pursuant to this section shall not thereafter transfer or otherwise dispose of the credits or other personal property of, or debts owed to, the person who is the subject of the demand to transmit without the consent of the State Controller.

5. Except as otherwise provided by specific statute, a person who receives a demand to transmit pursuant to this section shall, within 10 days thereafter, inform the State Controller of, and transmit to the State Controller within the time and in the manner requested by the State Controller, all credits or other personal property in his or her possession or control that belong to, and all debts that he or she owes to, the person who is the subject of the demand to transmit. Except as otherwise provided in subsection 6, no further notice is required to be served on such persons.

6. Except as otherwise provided by specific statute, if the property of the debtor consists of a series of payments owed to the debtor, the person who owes or controls the payments shall transmit the payments to the State Controller until otherwise notified by the State Controller. If the debt of the debtor is not paid within 1 year after the date on which the State Controller issued the original demand to transmit, the State Controller shall:

(a) Issue another demand to transmit to the person responsible for making the payments that informs the person to continue transmitting payments to the State Controller; or

(b) Notify the person that his or her duty to transmit the payments to the State Controller has ceased.

7. If the notice and demand to transmit is intended to prevent the transfer or other disposition of a deposit in a bank or other depository institution, or of any other credit or personal property in the possession or under the control of the bank or depository institution, the notice must be delivered or mailed to any branch or office of the bank or depository institution at which the deposit is carried or the credit or personal property is held.

8. If any person to whom the State Controller delivers a notice and demand to transmit transfers or otherwise disposes of any property or debts required by this chapter to be transmitted to the State Controller, the person is, to the extent of the value of the property or the amount of the debts so transferred or disposed of, liable to the State Controller for any portion of the debt that the State Controller is unable to collect from the debtor solely by reason of the transfer or other disposition of the property or debt.

9. A debtor who owes a debt to an agency for which the State Controller delivers a notice and demand to transmit concerning the debtor pursuant to this section is entitled to an administrative hearing before that agency to challenge the collection of the debt pursuant to the demand to transmit. Each agency may adopt such regulations as are necessary to provide an administrative hearing for the purposes of this subsection.

Sec. 8. Chapter 227 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Except as otherwise provided in subsection 2, the State Controller shall pay an account payable electronically.

2. Upon application of a payee or the payee's representative, the State Controller may waive the requirements of subsection 1 if the State Controller determines that the electronic payment of an account payable would cause the payee to suffer undue hardship or extreme inconvenience.

3. The State Controller may adopt such regulations as are necessary or advisable to carry out the provisions of this section.

Sec. 9. NRS 227.200 is hereby amended to read as follows:
227.200 The State Controller shall:

1. Draw a warrant in favor of any person or governmental payee certified by an agency of state government to receive money from the treasury and deliver or mail the warrant to the State Treasurer who shall sign the warrant and:

(a) ~~[Deliver or mail the countersigned warrant.]~~ *Except as otherwise provided in section 8 of this act*, if it is for *payment of* an account payable, ~~[directly to]~~ *electronically pay* the payee or the payee's representative;

(b) If it is for payment of an employee:

(1) Deliver or mail the warrant to the employee or to the appropriate state agency for distribution; or

(2) Deposit the warrant to the credit of the employee by direct deposit at a bank or credit union in which the employee has an account, if the employee has authorized the direct deposit; or

(c) Deposit the warrant to the credit of the payee through a funds transfer.

2. Keep a warrant register, in which the State Controller shall enter all warrants drawn by him or her. The arrangement of this book must be such as to show the bill and warrant number, the amount, out of which fund the warrants are payable, and a distribution of the warrants under the various appropriations.

3. Credit the State Treasurer with all warrants paid.

Sec. 10. ~~[NRS 239A.070 is hereby amended to read as follows:]~~

~~239A.070 This chapter does not apply to any subpoena issued pursuant to title 14 or chapters 616A to 617, inclusive, of NRS or prohibit~~

~~1. Dissemination of any financial information which is not identified with or identifiable as being derived from the financial records of a particular customer.~~

~~2. The Attorney General, State Controller, district attorney, Department of Taxation, Director of the Department of Health and Human Services, Administrator of the Securities Division of the Office of the Secretary of State, public administrator, sheriff or a police department from requesting of a financial institution, and the institution from responding to the request, as to whether a person has an account or accounts with that financial institution and, if so, any identifying numbers of the account or accounts.~~

~~3. A financial institution, in its discretion, from initiating contact with and thereafter communicating with and disclosing the financial records of a customer to appropriate governmental agencies concerning a suspected violation of any law.~~

~~4. Disclosure of the financial records of a customer incidental to a transaction in the normal course of business of the financial institution if the director, officer, employee or agent of the financial institution who makes or authorizes the disclosure has no reasonable cause to believe that such records will be used by a governmental agency in connection with an investigation of the customer.~~

~~5. A financial institution from notifying a customer of the receipt of a subpoena or a search warrant to obtain the customer's financial records, except when ordered by a court to withhold such notification.~~

~~6. The examination by or disclosure to any governmental regulatory agency of financial records which relate solely to the exercise of its regulatory function if the agency is specifically authorized by law to examine, audit or require reports of financial records of financial institutions.~~

~~7. The disclosure to any governmental agency of any financial information or records whose disclosure to that particular agency is required by the tax laws of this State.~~

~~8. The disclosure of any information pursuant to NRS 425.393, 425.400 or 425.460 [.] or section 3 of this act.~~

~~9. A governmental agency from obtaining a credit report or consumer credit report from anyone other than a financial institution.] (Deleted by amendment.)~~

Sec. 11. NRS 333.450 is hereby amended to read as follows:

333.450 1. ~~[AHH]~~ *Except as otherwise provided in section 8 of this act*, claims for supplies, materials, equipment and services purchased pursuant to the

1 provisions of this chapter must, when approved by the Chief, be paid in the same
2 manner as other claims against the State are required to be paid.

3 2. The Chief shall annually assess each using agency a fee for the
4 procurement and inventory services provided by the Purchasing Division to the
5 using agency. The fee must be based on the using agency's use of the procurement
6 and inventory services of the Purchasing Division during preceding years. The
7 Chief shall adjust the formula for calculating the fee each biennium.

8 3. If an agency is not a using agency, the Chief shall assess a fee of not more
9 than the cost to the Division to process the order for the agency.

10 4. The Chief may adopt regulations to carry out the provisions of this section.

11 **Sec. 12.** This act becomes effective upon passage and approval.