

SENATE BILL NO. 73—COMMITTEE ON FINANCE

(ON BEHALF OF THE DIVISION OF BUDGET AND PLANNING)

PREFILED DECEMBER 15, 2010

Referred to Committee on Finance

SUMMARY—Makes various changes concerning state financial administration. (BDR 31-427)

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 state financial administration; authorizing the State Board of Examiners to delegate certain authority to a person designated by the Clerk of the Board; revising provisions concerning the approval of requests for the revision of work programs, the acceptance of certain gifts and grants, allocations of certain money from federal block grants and certain changes of positions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Board of Examiners to delegate to its ex officio Clerk, the Chief of the Budget Division of the Department of Administration, the authority to approve the payment of claims from the State Claims Account and the Reserve for Statutory Contingency Account under such circumstances as the Board deems appropriate. (NRS 353.097, 353.190, 353.264)

Sections 1 and 3 of this bill authorize the Board to also delegate the authority to approve the payment of such claims to a person designated by the Clerk.

Existing law prescribes certain thresholds at which or conditions under which a state agency, department or commission of the Executive Department of State Government is required to obtain approval before revising work programs, accepting certain gifts and grants and allocating certain money from federal block grants. (NRS 353.220, 353.335, 353.345) **Sections 2, 4 and 5** of this bill remove these thresholds and conditions prescribed in existing law and instead require the State Board of Examiners and the Interim Finance Committee, upon the joint recommendation of the Chief, the Senate Fiscal Analyst and the Assembly Fiscal Analyst, to establish criteria for such approval.

Section 6 of this bill removes the prohibition against certain agencies in the Executive Department of State Government changing a position from one



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occupational group to another if money for the position was appropriated or authorized by the Legislature unless the Legislature itself or the Interim Finance Committee approves the change. Therefore, those agencies may carry out such changes of positions without legislative approval.

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

Section 1. NRS 353.097 is hereby amended to read as follows:

353.097 1. As used in this section, "stale claim" means a claim which is presented by a state agency to the State Board of Examiners after the date on which it is provided by law that money appropriated to that state agency for the previous fiscal year reverts to the fund from which appropriated.

2. There is hereby created a Stale Claims Account in the State General Fund. Money for the Account must be provided by direct legislative appropriation.

3. Upon the approval of a stale claim as provided in this section, the claim must be paid from the Stale Claims Account. Payments of stale claims for a state agency must not exceed the amount of money reverted to the fund from which appropriated by the state agency for the fiscal year in which the obligations represented by the stale claims were incurred.

4. A stale claim must be approved for payment from the Stale Claims Account by the State Board of Examiners, except that the State Board of Examiners may authorize its Clerk ~~or~~ *or a person designated by the Clerk*, under such circumstances as it deems appropriate, to approve stale claims on behalf of the Board. A state agency that is aggrieved by a determination of the Clerk *or his or her designee* to deny all or any part of a stale claim may appeal that determination to the State Board of Examiners.

5. A stale claim may be approved and paid at any time, despite the age of the claim, if payable from available federal grants or from a permanent fund in the State Treasury other than the State General Fund.

Sec. 2. NRS 353.220 is hereby amended to read as follows:

353.220 1. The head of any department, institution or agency of the Executive Department of the State Government, whenever he or she deems it necessary because of changed conditions, may request the revision of the work program of his or her department, institution or agency at any time during the fiscal year, and submit the revised program to the Governor through the Chief with a request for revision of the allotments for the remainder of that fiscal year.



2. Every request for revision must be submitted to the Chief on the form and with supporting information as the Chief prescribes.

3. Before encumbering any appropriated or authorized money, every request for revision must be approved or disapproved in writing by the Governor or the Chief, if the Governor has by written instrument delegated this authority to the Chief.

4. Whenever a request for the revision of a work program of a department, institution or agency ~~[in an amount more than \$20,000 would, when considered with all other changes in allotments for that work program made pursuant to NRS 353.215 and subsections 1, 2 and 3 of this section, increase or decrease by 10 percent or \$50,000, whichever is less, the expenditure level approved by the Legislature for any of the allotments within the work program,]~~ *meets the criteria established pursuant to this subsection*, the request must be approved as provided in subsection 5 before any appropriated or authorized money may be encumbered for the revision. *The State Board of Examiners and the Interim Finance Committee shall, upon the joint recommendation of the Chief, the Senate Fiscal Analyst and the Assembly Fiscal Analyst, establish criteria to be used in determining whether a request for the revision of a work program requires approval as provided in subsection 5. The criteria established must require such approval if the proposed revision of the work program could potentially conflict with the intent of the Legislature in approving the budget for the present biennium or in originally enacting the statutes which the work program is designed to effectuate.*

5. If a request for the revision of a work program requires additional approval as provided in subsection 4 and:

(a) Is necessary because of an emergency as defined in NRS 353.263 or for the protection of life or property, the Governor shall take reasonable and proper action to approve it and shall report the action, and his or her reasons for determining that immediate action was necessary, to the Interim Finance Committee at its first meeting after the action is taken. Action by the Governor pursuant to this paragraph constitutes approval of the revision, and other provisions of this chapter requiring approval before encumbering money for the revision do not apply.

(b) The Governor determines that the revision is necessary and requires expeditious action, he or she may certify that the request requires expeditious action by the Interim Finance Committee. Whenever the Governor so certifies, the Interim Finance Committee has 15 days after the request is submitted to its Secretary within which to consider the revision. Any request for revision which is not considered within the 15-day period shall be deemed approved.



(c) Does not qualify pursuant to paragraph (a) or (b), it must be submitted to the Interim Finance Committee. The Interim Finance Committee has 45 days after the request is submitted to its Secretary within which to consider the revision. Any request which is not considered within the 45-day period shall be deemed approved.

6. The Secretary shall place each request submitted pursuant to paragraph (b) or (c) of subsection 5 on the agenda of the next meeting of the Interim Finance Committee.

7. In acting upon a proposed revision of a work program, the Interim Finance Committee shall consider, among other things:

(a) The need for the proposed revision; and

(b) The intent of the Legislature in approving the budget for the present biennium and originally enacting the statutes which the work program is designed to effectuate.

Sec. 3. NRS 353.264 is hereby amended to read as follows:

353.264 1. The Reserve for Statutory Contingency Account is hereby created in the State General Fund.

2. The State Board of Examiners shall administer the Reserve for Statutory Contingency Account. The money in the Account must be expended only for:

(a) The payment of claims which are obligations of the State pursuant to NRS 41.03435, 41.0347, 621.025, 176.485, 179.310, 212.040, 212.050, 212.070, 281.174, 282.290, 282.315, 288.203, 293.253, 293.405, 353.120, 353.262, 412.154 and 475.235;

(b) The payment of claims which are obligations of the State pursuant to:

(1) Chapter 472 of NRS arising from operations of the Division of Forestry of the State Department of Conservation and Natural Resources directly involving the protection of life and property; and

(2) NRS 7.155, 34.750, 176A.640, 179.225 and 213.153, except that claims may be approved for the respective purposes listed in this paragraph only when the money otherwise appropriated for those purposes has been exhausted;

(c) The payment of claims which are obligations of the State pursuant to NRS 41.0349 and 41.037, but only to the extent that the money in the Fund for Insurance Premiums is insufficient to pay the claims; and

(d) The payment of claims which are obligations of the State pursuant to NRS 535.030 arising from remedial actions taken by the State Engineer when the condition of a dam becomes dangerous to the safety of life or property.

3. The State Board of Examiners may authorize its Clerk **or a person designated by the Clerk**, under such circumstances as it deems appropriate, to approve, on behalf of the Board, the payment



1 of claims from the Reserve for Statutory Contingency Account. For
2 the purpose of exercising any authority granted to the Clerk of the
3 State Board of Examiners *or his or her designee* pursuant to this
4 subsection, any statutory reference to the State Board of Examiners
5 relating to such a claim shall be deemed to refer to the Clerk of the
6 Board ~~or his or her designee.~~

7 **Sec. 4.** NRS 353.335 is hereby amended to read as follows:

8 353.335 1. Except as otherwise provided in ~~subsections 5~~
9 ~~and 6,~~ *subsection 5*, a state agency may accept any gift or grant of
10 property or services from any source only if it is included in an act
11 of the Legislature authorizing expenditures of nonappropriated
12 money or, when it is not so included, if it is approved as provided in
13 subsection 2. *The State Board of Examiners and the Interim*
14 *Finance Committee shall, upon the joint recommendation of the*
15 *Chief, the Senate Fiscal Analyst and the Assembly Fiscal Analyst,*
16 *establish criteria to be used in determining whether acceptance of*
17 *a gift or grant requires approval as provided in subsection 2. The*
18 *criteria established must require such approval if the gift or grant*
19 *is for a purpose that could potentially conflict with the intent of*
20 *the Legislature in approving the budget for the present biennium*
21 *or in enacting the statutes governing the powers and duties of the*
22 *state agency.*

23 2. If:

24 (a) Any proposed gift or grant is necessary because of an
25 emergency as defined in NRS 353.263 or for the protection or
26 preservation of life or property, the Governor shall take reasonable
27 and proper action to accept it and shall report the action and his or
28 her reasons for determining that immediate action was necessary to
29 the Interim Finance Committee at its first meeting after the action is
30 taken. Action by the Governor pursuant to this paragraph constitutes
31 acceptance of the gift or grant, and other provisions of this chapter
32 requiring approval before acceptance do not apply.

33 (b) The Governor determines that any proposed gift or grant
34 would be forfeited if the State failed to accept it before the
35 expiration of the period prescribed in paragraph (c), the Governor
36 may declare that the proposed acceptance requires expeditious
37 action by the Interim Finance Committee. Whenever the Governor
38 so declares, the Interim Finance Committee has 15 days after the
39 proposal is submitted to its Secretary within which to approve or
40 deny the acceptance. Any proposed acceptance which is not
41 considered within the 15-day period shall be deemed approved.

42 (c) The proposed acceptance of any gift or grant does not qualify
43 pursuant to paragraph (a) or (b), it must be submitted to the Interim
44 Finance Committee. The Interim Finance Committee has 45 days
45 after the proposal is submitted to its Secretary within which to



1 consider acceptance. Any proposed acceptance which is not
2 considered within the 45-day period shall be deemed approved.

3 3. The Secretary shall place each request submitted to the
4 Secretary pursuant to paragraph (b) or (c) of subsection 2 on the
5 agenda of the next meeting of the Interim Finance Committee.

6 4. In acting upon a proposed gift or grant, the Interim Finance
7 Committee shall consider, among other things:

8 (a) The need for the facility or service to be provided or
9 improved;

10 (b) Any present or future commitment required of the State;

11 (c) The extent of the program proposed; and

12 (d) The condition of the national economy, and any related fiscal
13 or monetary policies.

14 5. ~~[A state agency may accept:~~

15 ~~—(a) Gifts, including grants from nongovernmental sources, not~~
16 ~~exceeding \$10,000 each in value; and~~

17 ~~—(b) Governmental grants not exceeding \$100,000 each in value,~~
18 ~~if the gifts or grants are used for purposes which do not involve~~
19 ~~the hiring of new employees and if the agency has the specific~~
20 ~~approval of the Governor or, if the Governor delegates this power of~~
21 ~~approval to the Chief of the Budget Division of the Department of~~
22 ~~Administration, the specific approval of the Chief.~~

23 ~~—6.]~~ This section does not apply to:

24 (a) The Nevada System of Higher Education;

25 (b) The Department of Health and Human Services while acting
26 as the state health planning and development agency pursuant to
27 paragraph (d) of subsection 2 of NRS 439A.081 or for donations,
28 gifts or grants to be disbursed pursuant to NRS 433.395; or

29 (c) Artifacts donated to the Department of Cultural Affairs.

30 **Sec. 5.** NRS 353.345 is hereby amended to read as follows:

31 353.345 **1.** Whenever ~~[federal funding in the form of a~~
32 ~~categorical grant of a specific program administered by a state~~
33 ~~agency, commission or department is terminated and incorporated~~
34 ~~into] a proposed allocation of money from~~ a block grant from the
35 Federal Government to the State of Nevada ~~[, the] meets the criteria~~
36 ~~established pursuant to subsection 2, a~~ state agency, commission or
37 department must obtain the approval of the Interim Finance
38 Committee in order to allocate the money. ~~[received from any block~~
39 ~~grant.]~~

40 **2.** *The State Board of Examiners and the Interim Finance*
41 *Committee shall, upon the joint recommendation of the Chief, the*
42 *Senate Fiscal Analyst and the Assembly Fiscal Analyst, establish*
43 *criteria to be used in determining whether a proposed allocation of*
44 *money from a block grant from the Federal Government requires*
45 *approval pursuant to subsection 1. The criteria established must*



require such approval if the money from the block grant is to be used for a purpose that could potentially conflict with the intent of the Legislature in approving the budget for the present biennium or in enacting the statutes governing the powers and duties of the state agency, commission or department.

Sec. 6. NRS 218E.405 is hereby amended to read as follows:

218E.405 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.

2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, NRS 284.1729, subsection 2 of NRS 321.335, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, subsection 3 of NRS 341.090, NRS 341.142, subsection 6 of NRS 341.145, NRS 353.220, ~~353.224,~~ 353.2705 to 353.2771, inclusive, 353.288, 353.335, 353C.226, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chair of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.

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

(a) The Chair shall designate one of the members of the subcommittee to serve as the chair of the subcommittee;

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

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

Sec. 7. NRS 284.171 is hereby amended to read as follows:

284.171 For the purposes of NRS 353.205 , ~~and 353.224,~~ the Director shall prepare and maintain an index which categorizes all positions in the classified service of the State into the following broad occupational groups:



- 1 1. Occupations in the fields of agriculture and conservation.
- 2 2. Clerical and related occupations.
- 3 3. Occupations relating to custodial and domestic services.
- 4 4. Occupations relating to library services.
- 5 5. Occupations in the field of education.
- 6 6. Engineering and allied occupations.
- 7 7. Occupations in fiscal management and related staff services.
- 8 8. Occupations relating to legal services.
- 9 9. Occupations in the mechanical and construction trades.
- 10 10. Occupations in the fields of medicine and health and
- 11 related services.
- 12 11. Occupations in regulatory fields and in public safety.
- 13 12. Occupations in social services and rehabilitation.
- 14 13. Positions that require certification by the Peace Officers'
- 15 Standards and Training Commission pursuant to NRS 289.150 to
- 16 289.360, inclusive.
- 17 14. Other occupations.
- 18 **Sec. 8.** NRS 353.224 is hereby repealed.
- 19 **Sec. 9.** This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

353.224 Approval of Legislature or Interim Finance Committee required for certain changes of positions.

1. A state agency other than the Nevada System of Higher Education and vocational licensing boards may not change a position for which money has been appropriated or authorized from one occupational group to another, as defined by the index developed pursuant to NRS 284.171, without the approval of the Legislature or of the Interim Finance Committee.

2. All proposed changes of positions from one occupational group to another must be submitted to the Interim Finance Committee. The Interim Finance Committee has 45 days after a proposal is submitted to its Secretary within which to consider it. Any proposed change of a position from one occupational group to another which is not considered within the 45-day period shall be deemed approved.

3. The Secretary shall place each request submitted pursuant to subsection 2 on the agenda of the next meeting of the Interim Finance Committee.

4. In acting upon a proposed change of position, the Interim Finance Committee shall consider, among other things:



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- (a) The need for the proposed change; and
- (b) The intent of the Legislature in approving the existing classification of positions.

