

**MINUTES OF THE
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-sixth Session
June 1, 2011**

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 10:51 a.m. on Wednesday, June 1, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Mark A. Manendo, Vice Chair
Senator Michael A. Schneider
Senator Joseph (Joe) P. Hardy
Senator James A. Settelmeyer

COMMITTEE MEMBERS ABSENT:

Senator John J. Lee, Chair (Excused)

STAFF MEMBERS PRESENT:

Michael Stewart, Policy Analyst
Heidi Chlarson, Counsel
Crystina Coats, Assembly Leadership Policy Analyst
Cynthia Ross, Committee Secretary

VICE CHAIR MANENDO:

We will begin our meeting with Assembly Bill (A.B.) 330.

ASSEMBLY BILL 330 (1st Reprint): Makes various changes to provisions relating to certain government contracts. (BDR 19-965)

CRYSTINA COATS (Assembly Leadership Policy Analyst):

Assembly Bill 330 is intended to provide greater public access to State contracting information. Under law, all public books and records of a governmental entity must be open during office hours for the public to inspect and copy the records.

All departments, institutions and other agencies of the Executive Branch of State government are required to submit to the Director of the Budget Division, Department of Administration, certain information regarding existing contracts.

Assembly Bill 330 defines privatization contracts. Those are contracts executed by a governmental body which contracts out services substantially similar to the services provided by the public employees of the governmental entity and in lieu of services otherwise authorized or required to be provided by that governmental body.

Assembly Bill 330 declares that privatization contracts are public records and guarantees public access. It requires the governmental body also to submit to the Director of the Budget Division a copy of each contract's information regarding the duration and number of such contracts and a comparison between the use of employees under such contracts and the use of regular full-time employees of the governmental body.

The bill extends these public record requirements of privatization contracts and budgeting processes to local governments. In preparing a tentative budget, the governing body of a local government shall prepare and include a list of: any existing contracts of temporary employment services the local government has with persons; the duration of those contracts; the proposed expenditures for those contracts in the next two years; the reason for the use of those persons or services; a summary of the number of people the local government proposes to employ pursuant to each contract, reflected as equivalent full-time positions; and the equivalent hourly wage.

The goal of A.B. 330 is to increase the transparency of contracts by making more information available to the public. This ensures public accountability during the budgeting process to prevent irresponsible use of contracts rather than getting a report after the fact. It also holds local governments to the same standard as the State regarding publicly available information during the budgeting process.

SENATOR HARDY:

Would this allow a museum in the Overton to take advantage of the privatization process if town officials go through the steps?

MS. COATS:

The intent of the bill is to cover contracts where a service required or authorized to be provided by a certain governmental entity is contracted to a private entity. Those contracts are required to be public records and subject to inspection and public copy.

SENATOR HARDY:

Is there a list of contracts in place which this bill affects, or does the bill, for example, potentially put someone in charge of the medications in a prison?

MS. COATS:

A specific list is not covered. The bill gives a general description of anything that is substantially similar to services already provided by that entity and where other public employees have been providing them.

SENATOR HARDY:

Would this legislation allow a State service such as Medicaid to the prisons or medicines to the prisons become privatized?

HEIDI CHLARSON (Counsel):

This bill does not provide additional authority for a State or local government to privatize contracts. If statutory authority for State or local governments to privatize certain services exists, this bill requires that those contracts become public record.

SENATOR HARDY:

What existing services does this bill affect?

MS. CHLARSON:

I would have to research what services State and local governments are authorized to privatize.

VICE CHAIR MANENDO:

A person getting a fishing license at a private business would be an example. This bill opens those contracts to becoming public record.

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MS. CHLARSON:

Yes, fishing licenses are the type of contracts under this bill. If it pleases the Committee, I will go through law to see what types of services are authorized to be privatized.

VICE CHAIR MANENDO:

The hearing is closed on A.B. 330, and the hearing is open on A.B. 402.

ASSEMBLY BILL 402 (1st Reprint): Requires a state agency to enter into or participate in a contract to allow it to accept credit cards, debit cards or electronic transfers of money to the agency unless it is impracticable for the agency to do so. (BDR 31-968)

MS. COATS:

Assembly Bill 402 is intended to encourage the acceptance of electronic payment by State agencies. Under existing law, State agencies are allowed to enter into contracts to accept credit cards, debit cards and other forms of electronic payment. Assembly Bill 402 would require these State agencies to enter into these contracts for electronic payment unless it is impracticable for them to do so.

Agencies entering into a contract for an electronic payment will be required to coordinate the implementation with Office of the State Treasurer to track and reconcile payment information. If a State agency is unable to enter into those contracts on its own, it is authorized to participate in a contract entered into by the Department of Administration. Agencies that find it infeasible to enter into a contract for electronic payment are required to report to the Interim Finance Committee why it is impractical.

The goals of A.B. 402 are to ease access for businesses and citizens, to encourage modernization of outdated payment practices to meet public expectation, to increase compliance with fee collection and to allow streamlining of the payment process through the Nevada Business Portal. It also reduces red tape, shortens timelines and reduces wait times at agency offices.

VICE CHAIR MANENDO:

Seeing there is no public comment, I am closing the hearing on A.B. 402 and opening the hearing on A.B. 404.

[ASSEMBLY BILL 404 \(1st Reprint\)](#): Revises provisions regarding properties leased for use by the State. (BDR 27-381)

Ms. COATS:

Assembly Bill 404 is intended to centralize and make more transparent State leasing practices. Under existing law, the Administrator of the Buildings and Grounds Division, Department of Administration, is authorized to lease and equip office rooms outside of State buildings for the use of certain State officers and employees. A number of agencies are exempt, including the State Gaming Control Board, the Department of Public Safety and the Department of Motor Vehicles.

Assembly Bill 404 authorizes the Administrator of the Buildings and Grounds Division to negotiate and execute all leasing agreements from all General Fund agencies. This would allow for the centralization of oversight of buildings and leases, increase efficiency and transparency, and result in savings in leasing costs.

In determining whether to approve a lease agreement, A.B. 404 requires that the Administrator of the Buildings and Grounds Division shall consider the terms of the agreement, such as cost and availability of space and existing State-owned buildings.

Assembly Bill 404 increases transparency by requiring State entities to provide the Administrator of the Buildings and Grounds Division with an inventory of all real property leased or owned by the entity. It also requires the Administrator to post on the Website those reports regarding leases and ownership of real property related to State use. Each listing will include a brief description of the location, size and current use of the property and the terms of the lease, including, without limitation, the cost to the State.

Assembly Bill 404 also increases transparency and accountability by publicly posting leases and property. It allows businesses to make potential offers on unused State-owned properties and owners of office rooms to prepare better offers to the State at the end of a lease. The bill clarifies whom to contact. The bill allows for greater coordination and oversight between agencies, leading to efficiency and savings in leasing.

Assembly Bill 404 also eliminates the need for duplicative postings dealing with leasing in multiple agencies. In the mock-up of Proposed Amendment 7273 ([Exhibit C](#)) would allow for an exception to the publication requirement where concern for public safety is present. For example, a law enforcement agency with a concern for public safety would be exempt from the publication requirement.

SENATOR HARDY:

In the mock-up amendment, [Exhibit C](#), you are referencing section 1, subsection 5, which addresses the issue of confidentiality.

MS. COATS:

Yes, the mock-up amendment, [Exhibit C](#), clarifies section 1 by adding subsections 5 and 6 that say before inventories of buildings and leases are submitted and posted on the Internet, information where public safety might be a concern is to be reported to the Director of the Budget Division. The Director determines whether concerns are valid, and information with valid concerns must not be posted on the Internet.

SENATOR HARDY:

In the mock-up amendment [Exhibit C](#), the Administrator is referenced throughout the bill including in subsection 5, and the Director is referenced in subsection 6. Can this be explained?

MS. CHLARSON:

If I understand the intent of the mock-up, [Exhibit C](#), the new subsection 5 allows the Director to deem the information confidential. The other provisions of the bill relate to the Administrator of the Buildings and Grounds Division. The Administrator will be charged with keeping the inventory. The policy decision was to have the Director make the decision as to whether certain information would be kept confidential for purposes of maintaining public safety.

SENATOR HARDY:

The Administrator is correctly referenced in section 1, subsection 5.

MS. CHLARSON:

In the beginning of subsection 5 it says that before submitting the inventory to the Administrator, the State officer or agency can request the Director of the

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Budget Division to deem the information confidential. This occurs before the information gets to the Buildings and Grounds Division.

SENATOR HARDY:
The mock-up amendment is correct.

Ms. CHLARSON:
Yes, if that is the policy decision of Assemblyman Ocegüera.

VICE CHAIR MANENDO:
The hearing on A.B. 404 is closed. The Senate Committee on Government Affairs is adjourned at 11:10 a.m.

RESPECTFULLY SUBMITTED:

Cynthia Ross,
Committee Secretary

APPROVED BY:

Senator John J. Lee, Chair

DATE: _____

<u>EXHIBITS</u>			
Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 404	C	Crystina Coats	Proposed Amendment 7273