

ASSEMBLY BILL NO. 294—ASSEMBLYWOMAN  
BUSTAMANTE ADAMS

MARCH 15, 2013

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to economic development. (BDR 27-777)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to economic development; requiring the submission of certain reports concerning local emerging small businesses to the Office of Economic Development; increasing the threshold for requiring formal contracts for certain purchases by the State; providing for the certification of local emerging small businesses by the Office; requiring the Office to establish goals for the participation of local emerging small businesses in certain contracts relating to purchasing and public works projects; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law creates the Office of Economic Development within the Office of the Governor to coordinate and oversee economic development programs in this State. (NRS 231.043, 231.055) **Sections 11-14** of this bill: (1) provide for the certification of eligible local emerging small businesses by the Office; (2) require the Office to post a list of the certified local emerging small businesses on its Internet website; and (3) require the Office to adopt regulations, including regulations relating to the application form and procedure for that certification. Further, **sections 15 and 16** of this bill require the Office to establish: (1) an outreach program for local emerging small businesses and state agencies seeking state purchasing contracts and contracts for public works of this State; and (2) goals concerning the participation of local emerging small businesses in those contracts. **Sections 1, 2 and 5** of this bill require local governments in counties whose population is 100,000 or more (currently Clark and Washoe Counties), the Purchasing Division and the State Public Works Division, both of the Department of Administration, to submit reports twice each year to the Office concerning the participation of local emerging small businesses in certain contracts. **Section 17** of



\* A B 2 9 4 \*

17 this bill requires the Office to submit a report once each year to the Governor and  
18 the Legislature or the Interim Finance Committee concerning: (1) whether the goals  
19 for participation of the local emerging small businesses in certain contracts are  
20 being met and, if not, what efforts the Purchasing Division and State Public Works  
21 Division are undertaking to meet the goals; and (2) certain other information  
22 relating to the local emerging small businesses that have been certified by the  
23 Office.

24 Finally, **section 4** of this bill raises the threshold for requiring formal contracts  
25 for certain purchases by the State from \$25,000 to \$50,000.

---

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

1 **Section 1.** Chapter 332 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3 *1. The governing body or its authorized representative in a*  
4 *county whose population is 100,000 or more shall submit a report*  
5 *every 6 months to the Office. The report must include, without*  
6 *limitation, for the period since the last report:*

7 *(a) The number of local emerging small businesses that*  
8 *submitted a bid or proposal to the governing body or its authorized*  
9 *representative for a local purchasing contract;*

10 *(b) The number of local purchasing contracts that were*  
11 *awarded by the governing body or its authorized representative to*  
12 *local emerging small businesses;*

13 *(c) The total number of dollars' worth of local purchasing*  
14 *contracts that were awarded by the governing body or its*  
15 *authorized representative to local emerging small businesses; and*

16 *(d) Any other information deemed relevant by the Office.*

17 *2. The report required pursuant to subsection 1 must be*  
18 *submitted within 15 days after:*

19 *(a) The end of each fiscal year; and*

20 *(b) The end of each calendar year.*

21 *3. As used in this section:*

22 *(a) "Local emerging small business" has the meaning ascribed*  
23 *to it in section 8 of this act.*

24 *(b) "Local purchasing contract" means a contract awarded*  
25 *pursuant to the provisions of this chapter.*

26 *(c) "Office" means the Office of Economic Development.*

27 **Sec. 2.** Chapter 333 of NRS is hereby amended by adding  
28 thereto a new section to read as follows:

29 *1. The Purchasing Division shall submit a report every 6*  
30 *months to the Office. The report must include, without limitation,*  
31 *for the period since the last report:*

32 *(a) The number of local emerging small businesses that*  
33 *submitted a bid or proposal on a state purchasing contract;*



\* A B 2 9 4 \*

1     ***(b) The number of state purchasing contracts that were***  
2     ***awarded by the Purchasing Division to local emerging small***  
3     ***businesses;***

4     ***(c) The total number of dollars' worth of state purchasing***  
5     ***contracts that were awarded by the Purchasing Division to local***  
6     ***emerging small businesses;***

7     ***(d) Whether each goal established by the Office pursuant to***  
8     ***section 16 of this act has been achieved;***

9     ***(e) For each goal established by the Office pursuant to section***  
10    ***16 of this act that has not been achieved, information on all efforts***  
11    ***undertaken by the Purchasing Division to achieve the goals in the***  
12    ***current fiscal year and a proposed plan for achieving the goals in***  
13    ***the subsequent fiscal year; and***

14    ***(f) Any other information deemed relevant by the Office.***

15    ***2. The report required pursuant to subsection 1 must be***  
16    ***submitted within 15 days after:***

17    ***(a) The end of each fiscal year; and***

18    ***(b) The end of each calendar year.***

19    ***3. As used in this section:***

20    ***(a) "Local emerging small business" has the meaning ascribed***  
21    ***to it in section 8 of this act.***

22    ***(b) "Office" means the Office of Economic Development.***

23    **Sec. 3.** NRS 333.020 is hereby amended to read as follows:

24    333.020 As used in this chapter, unless the context otherwise  
25    requires:

26    1. "Administrator" means the Administrator of the Purchasing  
27    Division.

28    2. "Best value" means the greatest possible economy consistent  
29    with grades or qualities of supplies, materials, equipment and  
30    services that are adapted to the purposes to be served.

31    3. "Director" means the Director of the Department of  
32    Administration.

33    4. "Invitation to bid" means a written statement which sets  
34    forth the requirements and specifications of a contract to be awarded  
35    by competitive selection.

36    5. "Proprietary information" means:

37    (a) Any trade secret or confidential business information that is  
38    contained in a bid or proposal submitted on a particular contract; or

39    (b) Any other trade secret or confidential business information  
40    submitted in a bid or proposal and designated as proprietary by the  
41    Administrator.

42    ➡ As used in this subsection, "confidential business information"  
43    means any information relating to the amount or source of any  
44    income, profits, losses or expenditures of a person, including data



1 relating to cost or price submitted in support of a bid or proposal.  
2 The term does not include the amount of a bid or proposal.

3 6. "Purchasing Division" means the Purchasing Division of the  
4 Department of Administration.

5 7. "Purchasing officer" means a person who is authorized by  
6 the Administrator or a using agency to participate in:

7 (a) The evaluation of bids or proposals for a contract;

8 (b) Any negotiations concerning a contract; or

9 (c) The development, review or approval of a contract.

10 8. "Request for proposals" means a written statement which  
11 sets forth the requirements and specifications of a contract to be  
12 awarded by competitive selection.

13 9. *"State purchasing contract" means a contract awarded*  
14 *pursuant to the provisions of this chapter.*

15 10. "Trade secret" has the meaning ascribed to it in  
16 NRS 600A.030.

17 ~~10.~~ 11. "Using agencies" means all officers, departments,  
18 institutions, boards, commissions and other agencies in the  
19 Executive Department of the State Government which derive their  
20 support from public money in whole or in part, whether the money  
21 is provided by the State of Nevada, received from the Federal  
22 Government or any branch, bureau or agency thereof, or derived  
23 from private or other sources. The term does not include the Nevada  
24 Rural Housing Authority, the Housing Division of the Department  
25 of Business and Industry, local governments as defined in NRS  
26 354.474, conservation districts, irrigation districts and the Nevada  
27 System of Higher Education.

28 ~~11.~~ 12. "Volunteer fire department" means a volunteer fire  
29 department which pays premiums for industrial insurance pursuant  
30 to the provisions of chapters 616A to 616D, inclusive, or chapter  
31 617 of NRS.

32 **Sec. 4.** NRS 333.300 is hereby amended to read as follows:

33 333.300 1. Except as otherwise provided in NRS 333.375,  
34 the Administrator shall give reasonable notice, by advertising and  
35 by written notice provided to persons in a position to furnish the  
36 classes of commodities involved, as shown by its records, of all  
37 proposed purchases of supplies, materials and equipment to be  
38 purchased in accordance with a schedule prepared in conformity  
39 with the provisions of NRS 333.250.

40 2. All such materials, supplies and equipment, except as  
41 otherwise provided in this section, if the estimated cost thereof  
42 exceeds ~~\$25,000.~~ \$50,000, must be purchased by formal contract  
43 from the lowest responsible bidder after notice inviting the  
44 submission of sealed proposals to the Administrator of the  
45 Purchasing Division at the date, hour and location set forth in



1 the proposal, and at that date, hour and location the proposals must  
2 be publicly opened. The Purchasing Division may reject any or all  
3 proposals, or may accept the proposal determined best for the  
4 interest of the State. The notice must be published as prescribed in  
5 NRS 333.310.

6 3. In case of emergencies caused by acts of God or the national  
7 defense or other unforeseeable circumstances, the provisions for  
8 advertisements on competitive bids may be waived by the  
9 Administrator, but every effort must be made to secure the  
10 maximum competitive bidding under the circumstances. In no case  
11 may contracts be awarded until every possible effort has been made  
12 to secure at least three bona fide competitive bids.

13 4. In awarding contracts for the purchase of supplies, materials  
14 and equipment, if two or more lowest bids are identical, the  
15 Administrator shall:

16 (a) If the lowest bids are by bidders resident in the State of  
17 Nevada, accept the proposal which, in the discretion of the  
18 Administrator, is in the best interests of this State.

19 (b) If the lowest bids are by bidders resident outside the State of  
20 Nevada:

21 (1) Accept the proposal of the bidder who will furnish goods  
22 or commodities produced or manufactured in this State; or

23 (2) Accept the proposal of the bidder who will furnish goods  
24 or commodities supplied by a dealer resident in the State of Nevada.

25 **Sec. 5.** Chapter 338 of NRS is hereby amended by adding  
26 thereto a new section to read as follows:

27 *1. The Division shall submit a report every 6 months to the*  
28 *Office. The report must include, without limitation, for the period*  
29 *since the last report:*

30 *(a) The number of local emerging small businesses that*  
31 *submitted a bid or proposal on a contract for a public work in this*  
32 *State;*

33 *(b) The number of contracts for public works of this State that*  
34 *were awarded by the Division to local emerging small businesses;*

35 *(c) The total number of dollars' worth of contracts for public*  
36 *works of this State that were awarded by the Division to local*  
37 *emerging small businesses;*

38 *(d) Whether each goal established by the Office pursuant to*  
39 *section 16 of this act has been achieved;*

40 *(e) For each goal established by the Office pursuant to section*  
41 *16 of this act that has not been achieved, information on all efforts*  
42 *undertaken by the Division to achieve the goals in the current*  
43 *fiscal year and a proposed plan for achieving the goals in the*  
44 *subsequent fiscal year; and*

45 *(f) Any other information deemed relevant by the Office.*



2. *The reports required pursuant to subsection 1 must be submitted within 15 days after:*

- (a) The end of each fiscal year; and*
- (b) The end of each calendar year.*

3. *As used in this section:*

*(a) "Local emerging small business" has the meaning ascribed to it in section 8 of this act.*

*(b) "Office" means the Office of Economic Development.*

Sec. 6. Chapter 231 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 17, inclusive, of this act.

Sec. 7. *As used in sections 7 to 17, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 8, 9 and 10 of this act have the meanings ascribed to them in those sections.*

Sec. 8. *"Local emerging small business" means a business that has been certified by the Office pursuant to section 12 of this act.*

Sec. 9. *"Local purchasing contract" has the meaning ascribed to it in section 1 of this act.*

Sec. 10. *"State purchasing contract" has the meaning ascribed to it in NRS 333.020.*

Sec. 11. 1. *To be eligible for certification as a local emerging small business, a business must:*

- (a) Be in existence, operational and operated for a profit;*
- (b) Maintain its principal place of business in this State;*
- (c) Be in compliance with all applicable licensing and registration requirements in this State;*
- (d) Not be a subsidiary or parent company belonging to a group of firms that are owned or controlled by the same persons if, in the aggregate, the group of firms does not qualify pursuant to subsection 2 or 3 for designation as a tier 1 firm or a tier 2 firm; and*

*(e) Qualify pursuant to subsection 2 or 3 for designation as a tier 1 firm or a tier 2 firm.*

2. *To be designated a tier 1 firm, a business must not employ more than 20 full-time or full-time equivalent employees and:*

*(a) If the business is involved in the performance of contracts on public works, the average annual gross receipts for the business must not exceed \$1.7 million for the 3 years immediately preceding the date of application for certification as a local emerging small business; or*

*(b) If the business is involved in state or local purchasing, the average annual gross receipts for the business must not exceed*



1 *\$700,000 for the 3 years immediately preceding the date of*  
2 *application for certification as a local emerging small business.*

3 *3. To be designated a tier 2 firm, a business must not employ*  
4 *more than 30 full-time or full-time equivalent employees and:*

5 *(a) If the business is involved in the performance of contracts*  
6 *on public works, the average annual gross receipts for the*  
7 *business must not exceed \$3.5 million for the 3 years immediately*  
8 *preceding the date of application for certification as a local*  
9 *emerging small business; or*

10 *(b) If the business is involved in state or local purchasing, the*  
11 *average annual gross receipts for the business must not exceed*  
12 *\$1.3 million for the 3 years immediately preceding the date of*  
13 *application for certification as a local emerging small business.*

14 *4. In determining if a business qualifies for a designation as*  
15 *a tier 1 firm or a tier 2 firm pursuant to subsection 2 or 3, the*  
16 *Office shall use the criteria set forth in section 13 of this act to*  
17 *determine whether an employee is a full-time equivalent employee*  
18 *for the purposes of such a designation.*

19 *5. The monetary amounts set forth in subsections 2 and 3*  
20 *must be adjusted for each fiscal year that begins on or after July 1,*  
21 *2015, by adding to that amount the product of that amount*  
22 *multiplied by the percentage increase in the Consumer Price*  
23 *Index for All Urban Consumers (All Items) between the calendar*  
24 *year ending on December 31, 2013, and the calendar year*  
25 *immediately preceding the fiscal year for which the adjustment is*  
26 *made. The Office shall, on or before March 1 of each year,*  
27 *publish the adjusted amount for the next fiscal year on its Internet*  
28 *website or otherwise make that information available to applicants*  
29 *for certification as local emerging small businesses.*

30 **Sec. 12.** *1. A business may apply, on a form prescribed by*  
31 *regulation of the Office, to the Office for certification as a local*  
32 *emerging small business. The application must be accompanied by*  
33 *such proof as the Office requires to demonstrate that the applicant*  
34 *is in compliance with the criteria set forth in section 11 of this act*  
35 *and any regulations adopted pursuant to section 14 of this act.*

36 *2. Upon receipt of the application and when satisfied that the*  
37 *applicant meets the requirements set forth in this section, section 6*  
38 *of this act and any regulations adopted pursuant to section 14 of*  
39 *this act, the Office shall certify the business as a local emerging*  
40 *small business.*

41 *3. The Office shall compile a list of the local emerging small*  
42 *businesses certified pursuant to this section and post the list on its*  
43 *Internet website.*

44 **Sec. 13.** *To determine whether an employee is a full-time*  
45 *equivalent employee pursuant to section 11 of this act:*





1     1. *An owner of a business applying for certification as a local*  
2 *emerging small business must not be considered a full-time*  
3 *equivalent employee;*

4     2. *The period during which the full-time equivalency of an*  
5 *employee is determined must be based on the same period as the*  
6 *tax year for the business applying for certification as a local*  
7 *emerging small business; and*

8     3. *The hours worked by part-time and seasonal employees*  
9 *must be converted into full-time equivalent hours by dividing by*  
10 *2,080 the total hours worked for the business applying for*  
11 *certification by all part-time and seasonal employees.*

12     **Sec. 14.** 1. *The Office shall adopt regulations prescribing:*

13     (a) *The application form and procedure for certification as a*  
14 *local emerging small business; and*

15     (b) *The forms for the reports required pursuant to sections 1, 2*  
16 *and 5 of this act.*

17     2. *The Office may adopt regulations to carry out the*  
18 *provisions of sections 7 to 17, inclusive, of this act.*

19     **Sec. 15.** 1. *The Office shall, in consultation with the*  
20 *Department of Business and Industry, establish an outreach*  
21 *program for local emerging small businesses and state agencies*  
22 *seeking state purchasing contracts and contracts for public works*  
23 *of this State. To the extent practicable, such an outreach program*  
24 *must include private contractors.*

25     2. *The Office shall encourage the Purchasing Division of the*  
26 *Department of Administration and the State Public Works*  
27 *Division of the Department of Administration to:*

28     (a) *Use the list of the local emerging small businesses*  
29 *compiled by the Office pursuant to section 12 of this act; and*

30     (b) *Develop outreach programs for local emerging small*  
31 *businesses.*

32     **Sec. 16.** 1. *The Office shall establish goals for:*

33     (a) *The submission of bids or proposals by local emerging*  
34 *small businesses for state purchasing contracts for which the*  
35 *estimated cost is \$50,000 or less and for the awarding of those*  
36 *contracts to local emerging small businesses; and*

37     (b) *The submission of bids or proposals by local emerging*  
38 *small businesses for contracts for public works of this State for*  
39 *which the estimated cost is less than \$100,000 and for the*  
40 *awarding of those contracts to local emerging small businesses.*

41     2. *The Office shall encourage:*

42     (a) *Local governments to award local purchasing contracts*  
43 *and contracts for public works of the local government to local*  
44 *emerging small businesses;*





1       (b) *Local governments to establish goals for the awarding of*  
2 *local purchasing contracts and contracts for public works of the*  
3 *local government to local emerging small businesses; and*

4       (c) *Each local government in a county whose population is less*  
5 *than 100,000 to submit reports to the Office that are similar in*  
6 *nature and frequency to the reports required pursuant to section 1*  
7 *of this act.*

8       3. *The Office, in cooperation with the Office of the Governor,*  
9 *shall establish an annual recognition program for the state*  
10 *agencies that meet the goals established pursuant to subsection 1.*

11       **Sec. 17.** *On or before September 15 of each year, the Office*  
12 *shall submit a report to the Governor and to the Director of the*  
13 *Legislative Counsel Bureau for transmittal to the Interim Finance*  
14 *Committee, if the report is received during an odd-numbered year,*  
15 *or to the next session of the Legislature, if the report is received*  
16 *during an even-numbered year. The report must include, without*  
17 *limitation, for the fiscal year immediately preceding the*  
18 *submission of the report:*

19       1. *A summary of the information submitted to the Office*  
20 *pursuant to sections 1, 2 and 5 and, if applicable, paragraph (c) of*  
21 *subsection 2 of section 16 of this act, including, without limitation,*  
22 *efforts undertaken to achieve any goals established by the Office*  
23 *which were not achieved in the current fiscal year and proposed*  
24 *action plans for achieving those goals in the subsequent fiscal*  
25 *year; and*

26       2. *The number of local emerging small businesses which are*  
27 *designated as tier 1 firms and tier 2 firms pursuant to section 11 of*  
28 *this act. The numbers must be reported separately for businesses*  
29 *involved in the performance of public works and for businesses*  
30 *involved in state or local purchasing.*

31       **Sec. 18.** NRS 333.3364 is hereby repealed.

32       **Sec. 19.** 1. The initial reports required pursuant sections 1, 2  
33 and 5 of this act must include information for the period which  
34 begins on January 1, 2014, and ends on June 30, 2014.

35       2. Notwithstanding the provisions of section 17 of this act, the  
36 initial report required pursuant to that section must include  
37 information for the period which begins on January 1, 2014, and  
38 ends on June 30, 2014.

39       **Sec. 20.** This act becomes effective:

40       1. Upon passage and approval for the purposes of adopting  
41 regulations and performing any other preparatory administrative  
42 tasks that are necessary to carry out the provisions of this act; and

43       2. On January 1, 2014, for all other purposes.



---

---

TEXT OF REPEALED SECTION

---

---

**333.3364 Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: “State purchasing contract” defined.** “State purchasing contract” means a contract awarded pursuant to the provisions of this chapter.

③0

