

Amendment No. 428

Assembly Amendment to Assembly Bill No. 333

(BDR 31-811)

Proposed by: Assembly Committee on Government Affairs**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.

DP/TMC



Date: 4/18/2013

A.B. No. 333—Requires the proposed budget of the Executive Department of the State Government to contain certain information relating to incentives for economic development. (BDR 31-811)



ASSEMBLY BILL NO. 333—ASSEMBLYMEN HEALEY, KIRKPATRICK; COHEN,
LIVERMORE, PIERCE, STEWART AND SWANK

MARCH 18, 2013

JOINT SPONSOR: SENATOR JONES

Referred to Committee on Government Affairs

SUMMARY—~~[Requires the proposed budget of the Executive Department of the State Government to contain certain information]~~ **Revises provisions** relating to incentives for economic development. (BDR 31-811)

FISCAL NOTE: Effect on Local Government: No.
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 state financial administration; requiring ~~[each state agency which approves an abatement of taxes or other incentive for economic development]~~ **the Office of Economic Development and the Office of Energy each** periodically to conduct an analysis of the costs and benefits of ~~[the]~~ **an approved abatement of taxes or other incentive for economic development** and report the results of its analysis to the Chief of the Budget Division of the Department of Administration; requiring that the results of the ~~[analysis]~~ **analyses**, as so reported, be included in the proposed state budget; **revising the required contents of a report of certain abatements from taxation which must be submitted to the Legislature; revising the factors which must be considered in the evaluation of an application for a partial abatement of certain taxes;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Various provisions of existing law provide for the approval by state agencies of tax abatements and other incentives for economic development. (NRS 274.310, 274.320, 274.330, 360.750, 361.0687, 374.357, 701A.210) **Section 1** of this bill requires ~~[each state agency which approves such an incentive, including, without limitation]~~ the Office of Economic Development, **and the Office of Energy each** periodically to conduct an analysis of the costs and benefits of the incentives in effect during the immediately preceding 2 fiscal years, ~~[in accordance with a methodology prescribed by]~~ **and report to** the Chief of the Budget Division of the Department of Administration, ~~[and report to the Chief]~~ concerning the results of the ~~[agency's]~~ analysis. **Section 1** provides that any such report is a public record.

Section 3 of this bill requires that the results of ~~each agency's analysis,~~ **the analyses,** as reported to the Chief for the immediately preceding 2 fiscal years, be included as part of the proposed state budget for each biennium.

Existing law requires the Office of Economic Development periodically to prepare and submit for the Legislature a report concerning certain abatements from taxation. (NRS 231.0685) Section 3.3 of this bill revises the period covered by and information to be included in the report.

Existing law requires the Office of Economic Development to adopt regulations relating to the minimum level of benefits that certain businesses applying for a partial abatement of certain taxes must provide to employees. (NRS 360.750) Section 3.7 of this bill revises these provisions to apply solely to health care benefits.

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

Section 1. Chapter 353 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Chief shall:

(a) ~~Require each state agency, including, without limitation,~~ **the Office of Economic Development ~~and~~ and the Office of Energy each** periodically to conduct an analysis of the relative costs and benefits of each incentive for economic development previously approved by the ~~agency~~ **respective office** and in effect during the immediately preceding 2 fiscal years, including, without limitation, any abatement of taxes approved by the Office of Economic Development pursuant to NRS 274.310, 274.320, 274.330, 360.750, 361.0687, 374.357 or 701A.210, to assist the Governor and the Legislature in determining whether the economic benefits of the incentive have accomplished the purposes of the statute pursuant to which the incentive was approved and warrant additional incentives of that kind;

(b) ~~Require each~~ **each state agency** ~~office~~ **office** to report in writing to the Chief the results of the analysis conducted by the ~~agency~~ **office** pursuant to paragraph (a); ~~and~~

(c) ~~Prescribe by regulation the methodology for performing and reporting the results of the analysis required by paragraph (a); and~~

~~(d)~~ **Establish a schedule for performing and reporting the results of the analysis required by paragraph (a) which ensures that the results of the analysis reported by each** ~~state agency~~ **office** **are included in the proposed budget prepared pursuant to NRS 353.205, as required by that section.**

2. Each report prepared ~~by a state agency~~ **for the Chief pursuant to this section is a public record and is open to inspection pursuant to the provisions of NRS 239.010.**

Sec. 2. NRS 353.155 is hereby amended to read as follows:

353.155 As used in NRS 353.150 to 353.246, inclusive, **and section 1 of this act** "Chief" means the Chief of the Budget Division of the Department of Administration.

Sec. 3. NRS 353.205 is hereby amended to read as follows:

353.205 1. The proposed budget for the Executive Department of the State Government for each fiscal year must be set up in ~~three~~ **four** parts:

(a) Part 1 must consist of a budgetary message by the Governor which includes:

(1) A general summary of the long-term performance goals of the Executive Department of the State Government for:

1 (I) Core governmental functions, including the education of pupils in
2 kindergarten through grade 12, higher education, human services and public safety
3 and health; and

4 (II) Other governmental services;

5 (2) An explanation of the means by which the proposed budget will
6 provide adequate funding for those governmental functions and services such that
7 ratable progress will be made toward achieving those long-term performance goals;

8 (3) An outline of any other important features of the financial plan of the
9 Executive Department of the State Government for the next 2 fiscal years; and

10 (4) A general summary of the proposed budget setting forth the aggregate
11 figures of the proposed budget in such a manner as to show the balanced relations
12 between the total proposed expenditures and the total anticipated revenues, together
13 with the other means of financing the proposed budget for the next 2 fiscal years,
14 contrasted with the corresponding figures for the last completed fiscal year and
15 fiscal year in progress. The general summary of the proposed budget must be
16 supported by explanatory schedules or statements, classifying the expenditures
17 contained therein by organizational units, objects and funds, and the income by
18 organizational units, sources and funds. The organizational units may be
19 subclassified by functions and by agencies, bureaus or commissions, or in any other
20 manner determined by the Chief.

21 (b) Part 2 must embrace the detailed budgetary estimates both of expenditures
22 and revenues as provided in NRS 353.150 to 353.246, inclusive ~~H~~, and *section 1*
23 *of this act*. The information must be presented in a manner which sets forth
24 separately the cost of continuing each program at the same level of service as the
25 current year and the cost, by budgetary issue, of any recommendations to enhance
26 or reduce that level of service. Revenues must be summarized by type, and
27 expenditures must be summarized by program or budgetary account and by
28 category of expense. Part 2 must include:

29 (1) The identification of each long-term performance goal of the Executive
30 Department of the State Government for:

31 (I) Core governmental functions, including the education of pupils in
32 kindergarten through grade 12, higher education, human services, and public safety
33 and health; and

34 (II) Other governmental services,

35 ➤ and of each intermediate objective for the next 2 fiscal years toward achieving
36 those goals.

37 (2) An explanation of the means by which the proposed budget will
38 provide adequate funding for those governmental functions and services such that
39 those intermediate objectives will be met and progress will be made toward
40 achieving those long-term performance goals.

41 (3) A mission statement and measurement indicators for each department,
42 institution and other agency of the Executive Department of the State Government,
43 which articulate the intermediate objectives and long-term performance goals each
44 such department, institution and other agency is tasked with achieving and the
45 particular measurement indicators tracked for each such department, institution and
46 other agency to determine whether the department, institution or other agency is
47 successful in achieving its intermediate objectives and long-term performance
48 goals, provided in sufficient detail to assist the Legislature in performing an
49 analysis of the relative costs and benefits of program budgets and in determining
50 priorities for expenditures. If available, information regarding such measurement
51 indicators must be provided for each of the previous 4 fiscal years. If a new
52 measurement indicator is being added, a rationale for that addition must be
53 provided. If a measurement indicator is being modified, information must be

provided regarding both the modified indicator and the indicator as it existed before modification. If a measurement indicator is being deleted, a rationale for that deletion and information regarding the deleted indicator must be provided.

(4) Statements of the bonded indebtedness of the State Government, showing the requirements for redemption of debt, the debt authorized and unissued, and the condition of the sinking funds.

(5) Any statements relative to the financial plan which the Governor may deem desirable, or which may be required by the Legislature.

(c) Part 3 ~~must set forth, for each state agency which is required to conduct an analysis and report~~ the Office of Economic Development and the Office of Energy, the results of the analyses conducted by those offices and reported to the Chief pursuant to section 1 of this act ~~the results of the analysis as so reported for the immediately preceding 2 fiscal years.~~

(d) Part 4 must include a recommendation to the Legislature for the drafting of a general appropriation bill authorizing, by departments, institutions and agencies, and by funds, all expenditures of the Executive Department of the State Government for the next 2 fiscal years, and may include recommendations to the Legislature for the drafting of such other bills as may be required to provide the income necessary to finance the proposed budget and to give legal sanction to the financial plan if adopted by the Legislature.

2. Except as otherwise provided in NRS 353.211, as soon as each part of the proposed budget is prepared, a copy of the part must be transmitted to the Fiscal Analysis Division of the Legislative Counsel Bureau for confidential examination and retention.

3. Except for the information provided to the Fiscal Analysis Division of the Legislative Counsel Bureau pursuant to NRS 353.211, parts 1 and 2 of the proposed budget are confidential until the Governor transmits the proposed budget to the Legislature pursuant to NRS 353.230, regardless of whether those parts are in the possession of the Executive or Legislative Department of the State Government. Part ~~3~~ 4 of the proposed budget is confidential until the bills which result from the proposed budget are introduced in the Legislature. As soon as practicable after the Governor transmits the proposed budget to the Legislature pursuant to NRS 353.230, the information required to be included in the proposed budget pursuant to subparagraphs (1), (2) and (3) of paragraph (b) of subsection 1 must be posted on the Internet websites maintained by the Governor, the Department of Administration and the Budget Division of the Department of Administration.

Sec. 3.3. NRS 231.0685 is hereby amended to read as follows:

231.0685 The Office shall, on or before January 15 of each odd-numbered year, prepare and submit to the Director of the Legislative Counsel Bureau for transmission to the Legislature a report concerning the abatements from taxation that the Office approved pursuant to NRS 274.310, 274.320, 274.330 or 360.750. The report must set forth, for each abatement from taxation that the Office approved ~~in the 2 year period~~ during the fiscal years which are 3 fiscal years and 6 fiscal years immediately preceding the submission of the report:

1. The dollar amount of the abatement;

2. The location of the business for which the abatement was approved;

3. The value of infrastructure included as an incentive for the business;

4. If applicable, the number of employees that the business for which the abatement was approved employs or will employ;

~~5.~~ 5. Whether the business for which the abatement was approved is a new business or an existing business; ~~and~~

~~6.~~ 6. The economic sector in which the business operates, the number of primary jobs related to the business, the average wage paid to employees of the

business and the assessed values of personal property and real property of the business; and

7. Any other information that the Office determines to be useful.

Sec. 3.7. NRS 360.750 is hereby amended to read as follows:

360.750 1. A person who intends to locate or expand a business in this State may apply to the Office of Economic Development for a partial abatement of one or more of the taxes imposed on the new or expanded business pursuant to chapter 361, 363B or 374 of NRS.

2. The Office of Economic Development shall approve an application for a partial abatement if the Office makes the following determinations:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Executive Director of the Office to implement the State Plan for Economic Development.

(b) The applicant has executed an agreement with the Office which must:

(1) Comply with the requirements of NRS 360.755;

(2) State that the business will, after the date on which a certificate of eligibility for the abatement is issued pursuant to subsection 4, continue in operation in this State for a period specified by the Office, which must be at least 5 years, and will continue to meet the eligibility requirements set forth in this subsection; and

(3) Bind the successors in interest of the business for the specified period.

(c) The business is registered pursuant to the laws of this State or the applicant commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(d) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the health care benefits the business provides to its employees in this State will meet the minimum requirements for health care benefits established by the Office by regulation pursuant to subsection 8.

(e) Except as otherwise provided in NRS 361.0687, if the business is a new business in a county whose population is less than 100,000 or a city whose population is less than 60,000, the business meets at least two of the following requirements:

(1) The business will have 15 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$250,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the health care benefits the business provides to its employees in this State will meet the minimum requirements for health care benefits established by the Office by regulation pursuant to subsection 8.

(f) If the business is an existing business, the business meets at least two of the following requirements:

(1) The business will increase the number of employees on its payroll by 10 percent more than it employed in the immediately preceding fiscal year or by six employees, whichever is greater.

(2) The business will expand by making a capital investment in this State in an amount equal to at least 20 percent of the value of the tangible property possessed by the business in the immediately preceding fiscal year. The determination of the value of the tangible property possessed by the business in the immediately preceding fiscal year must be made by the:

(I) County assessor of the county in which the business will expand, if the business is locally assessed; or

(II) Department, if the business is centrally assessed.

(3) The average hourly wage that will be paid by the existing business to its new employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all new employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the health care benefits the business provides to its new employees in this State will meet the minimum requirements for health care benefits established by the Office by regulation pursuant to subsection 8.

(g) In lieu of meeting the requirements of paragraph (d), (e) or (f), if the business furthers the development and refinement of intellectual property, a patent or a copyright into a commercial product, the business meets at least two of the following requirements:

(1) The business will have 10 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$500,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the health care benefits the business provides to its employees in this State will meet with minimum requirements for health care benefits established by the Office by regulation pursuant to subsection 8.

3. Notwithstanding the provisions of subsection 2, the Office of Economic Development:

(a) Shall not consider an application for a partial abatement unless the Office has requested a letter of acknowledgment of the request for the abatement from any affected county, school district, city or town.

(b) Shall consider the level of health care benefits provided by the business to its employees, the projected economic impact of the business and the projected tax revenue of the business after deducting projected revenue from the abated taxes.

(c) May, if the Office determines that such action is necessary:

(1) Approve an application for a partial abatement by a business that does not meet the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2;

(2) Make the requirements set forth in paragraph (d), (e), (f) or (g) of subsection 2 more stringent; or

(3) Add additional requirements that a business must meet to qualify for a partial abatement.

4. If the Office of Economic Development approves an application for a partial abatement, the Office shall immediately forward a certificate of eligibility for the abatement to:

(a) The Department;

(b) The Nevada Tax Commission; and

(c) If the partial abatement is from the property tax imposed pursuant to chapter 361 of NRS, the county treasurer.

5. An applicant for a partial abatement pursuant to this section or an existing business whose partial abatement is in effect shall, upon the request of the Executive Director of the Office of Economic Development, furnish the Executive Director with copies of all records necessary to verify that the applicant meets the requirements of subsection 2.

6. If a business whose partial abatement has been approved pursuant to this section and is in effect ceases:

(a) To meet the requirements set forth in subsection 2; or

(b) Operation before the time specified in the agreement described in paragraph (b) of subsection 2,

the business shall repay to the Department or, if the partial abatement was from the property tax imposed pursuant to chapter 361 of NRS, to the county treasurer, the amount of the exemption that was allowed pursuant to this section before the failure of the business to comply unless the Nevada Tax Commission determines that the business has substantially complied with the requirements of this section. Except as otherwise provided in NRS 360.232 and 360.320, the business shall, in addition to the amount of the exemption required to be paid pursuant to this subsection, pay interest on the amount due at the rate most recently established pursuant to NRS 99.040 for each month, or portion thereof, from the last day of the month following the period for which the payment would have been made had the partial abatement not been approved until the date of payment of the tax.

7. A county treasurer:

(a) Shall deposit any money that he or she receives pursuant to subsection 6 in one or more of the funds established by a local government of the county pursuant to NRS 354.6113 or 354.6115; and

(b) May use the money deposited pursuant to paragraph (a) only for the purposes authorized by NRS 354.6113 and 354.6115.

8. The Office of Economic Development:

(a) Shall adopt regulations relating to the minimum level of health care benefits that a business must provide to its employees; ~~if the business is going to use benefits paid to employees as a basis to qualify for a partial abatement;~~ and

(b) May adopt such other regulations as the Office of Economic Development determines to be necessary to carry out the provisions of this section and NRS 360.755.

9. The Nevada Tax Commission:

(a) Shall adopt regulations regarding:

(1) The capital investment that a new business must make to meet the requirement set forth in paragraph (d), (e) or (g) of subsection 2; and

(2) Any security that a business is required to post to qualify for a partial abatement pursuant to this section.

(b) May adopt such other regulations as the Nevada Tax Commission determines to be necessary to carry out the provisions of this section and NRS 360.755.

10. An applicant for an abatement who is aggrieved by a final decision of the Office of Economic Development may petition for judicial review in the manner provided in chapter 233B of NRS.

Sec. 4. This act becomes effective on July 1, 2013.