

Amendment No. 13

Assembly Amendment to Assembly Bill No. 45

(BDR 33-306)

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

EWR/MSM



Date: 4/4/2013

A.B. No. 45—Revises various provisions relating to the Department of
Administration. (BDR 33-306)



ASSEMBLY BILL NO. 45—COMMITTEE
ON GOVERNMENT AFFAIRS(ON BEHALF OF THE DIVISION OF
STATE LIBRARY AND ARCHIVES)

PREFILED DECEMBER 20, 2012

Referred to Committee on Government Affairs

SUMMARY—Revises various provisions relating to the Department of Administration. (BDR 33-306)

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 the Department of Administration; revising provisions governing the duties of the Division of State Library and Archives of the Department of Administration; eliminating the Repository for Records Concerning Programs, Activities and Events Related to the Participation of Citizens in the Development of Public Policy and the Improvement of the Operation of Government; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth a list of specific items that the State Library and Archives Administrator is required to keep custody of and preserve. (NRS 378.245) **Section 1** of this bill eliminates the description of the State Seal and other such seals and expired official bonds approved by the Governor from the list.

Existing law allows the Administrator to inspect the physical nature of governmental records in the custody of a state or local governmental agency that are not confidential or privileged. (NRS 378.255) **Section 2** of this bill expands the ~~inspection~~ authority of the Administrator to ~~include confidential or privileged~~ **inspect** information in records in the custody of state or local governmental agencies **and to inspect the physical nature of and information contained in such records that are confidential or privileged under certain circumstances. Section 2 also requires an inspection of confidential or privileged records to be logged** and prohibits the Administrator from disclosing any such confidential or privileged information.

Under existing law, the Division of State Library and Archives of the Department of Administration is required to provide microfilming services to state agencies and local governments. (NRS 239.070, 378.280) **Sections 3 and 7** of this bill require the Division to also provide digital imaging services to those governmental entities. **Section 2** of this bill authorizes the Division to provide microfilming and digital imaging services for the records of the Legislative and Judicial Branches of State Government, upon request.

Section 10 of this bill eliminates the authority of the Administrator to enter into an agreement with the Secretary of State to keep and preserve material for the Secretary of State.

(NRS 378.260) **Section 10** also eliminates certain fees that are duplicative of fees that a governmental entity is generally authorized to charge. (NRS 239.052, 239.055) Finally, **section 10** eliminates the Repository for Records Concerning Programs, Activities and Events Related to the Participation of Citizens in the Development of Public Policy and the Improvement of the Operation of Government, which was created to store and maintain information submitted concerning ways to increase citizen participation in government. (NRS 378.400) **Sections 4-6, 8 and 9** of this bill make conforming changes relating to the elimination of the Repository, including requiring that documents and information currently submitted to the Repository be sent to the Division of State Library and Archives.

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

Section 1. NRS 378.245 is hereby amended to read as follows:

378.245 1. The State Library and Archives Administrator has custody of and shall carefully preserve in the Division:

(a) The enrolled copy of the Constitution of the State of Nevada.

~~(b) [The description of the State Seal and other seals of which a description may be required to be deposited in the Division.]~~

~~—(c)~~ The proceedings and all papers of the two Constitutional Conventions held for the purpose of framing a Constitution of this State.

~~(d)~~ (c) The manuscripts containing the enrolled acts and joint resolutions and journals of the Legislature of this State and the Territory of Nevada.

~~(e)~~ (d) The records, papers and documents of Carson County, Utah Territory, and all other books, records and documents which, by the laws of the Territory of Nevada, were required to be deposited and kept in the office of the Secretary of the Territory of Nevada.

~~(f)~~ (e) All the books, records, parchments, maps, registers, papers and other material required to be deposited or kept in the Division.

~~(g) All expired official bonds approved by the Governor.]~~

2. The State Library and Archives Administrator shall not permit the original papers and other material to be taken out of the archives unless he or she determines that the circumstances ensure the safety and integrity of the papers and other material.

Sec. 2. NRS 378.255 is hereby amended to read as follows:

378.255 The State Library and Archives Administrator may:

1. Adopt regulations and establish standards, procedures and techniques for the effective management of records.

2. Make continuing surveys of current practices for the management of records and recommend improvements in those practices, including the use of space, equipment and supplies to create, maintain and store records.

3. Establish standards for the preparation of schedules providing for the retention of state records of continuing value and for the prompt and orderly disposition of state records which no longer possess sufficient administrative, fiscal, legal or research value to warrant their further retention.

4. Establish, maintain and operate a center for storing and retrieving records for state agencies pending the acceptance of the records by the Division or the disposition of the records in any other manner prescribed by law.

5. Establish a program for ~~[the control and management of forms, files, reports, directives and correspondence.]~~ *providing microfilming and digital imaging services for the records of the Legislative and Judicial Branches of State Government, upon request.*

6. Establish a program of planning and preparation to assist state agencies and local governments in providing protection for records essential for the continuation or re-establishment of government in the event of a disaster.

7. Provide advice and technical assistance to state agencies, local governmental ~~entities~~ *agencies* and, if requested, the Legislative and Judicial Branches of State Government concerning any aspect of managing records.

8. Through the Division, inspect the physical nature of *, and information contained in,* governmental records in the custody of a state or local governmental agency ~~*is including, without limitation, information in governmental records,*~~ which ~~*are not*~~ *is* confidential or privileged.

9. *Through the Division, inspect the physical nature of, and information contained in, confidential or privileged governmental records in the custody of a state or local governmental agency if the inspection is necessary to carry out the provisions of subsection 3, 5, 6 or 7 and if the inspection is not prohibited by any federal law or regulation. Inspections must be logged as required pursuant to NRS 239C.230. The ~~Administrator~~ Division shall not disclose any confidential or privileged information in governmental records inspected pursuant to this subsection, and such inspection does not alter, affect, abrogate or waive the confidential or privileged status of the information.*

10. With the approval of the Committee to Approve Schedules for the Retention and Disposition of Official State Records created pursuant to NRS 239.073, bring an action to obtain possession of the records of a state or local governmental agency which are:

- (a) Of historical value and are not being properly cared for; or
- (b) Privately held.

➤ In an action to recover a record which is privately held, it is rebuttably presumed that a governmental record which appears to be the original of a document received or the file copy of a document made by a governmental agency is governmental property.

Sec. 3. NRS 378.280 is hereby amended to read as follows:

378.280 1. Except as otherwise provided in subsection 2, the State Library and Archives Administrator shall establish and administer a program for the efficient and economical creation, use, maintenance, retention, preservation, *including, without limitation, microfilming and digital imaging*, and disposition of the records of the Executive Branch of the Government of the State of Nevada.

2. The Director of the Department of Transportation may establish a program for the management of the Department's records, if the Director confers with the State Library and Archives Administrator regarding the program. The program must incorporate generally accepted practices for managing records.

Sec. 4. NRS 225.200 is hereby amended to read as follows:

225.200 As used in NRS 225.200 to 225.270, inclusive, unless the context otherwise requires, the words and terms defined in NRS 225.210 ~~*and*~~ *and* 225.220 ~~*and 225.230*~~ have the meanings ascribed to them in those sections.

Sec. 5. NRS 225.250 is hereby amended to read as follows:

225.250 1. The Advisory Committee shall:

(a) ~~*Advise the Director of the Department of Administration concerning the Repository and make recommendations to support greater use of the Repository and collection of materials for the Repository;*~~

~~*(b)*~~ Assist the Secretary of State in identifying and proposing programs that support participatory democracy and solutions to any problem concerning the level of participatory democracy, including, without limitation, proposing methods to involve the news media in the process of addressing and proposing solutions to such a problem;

~~(b)~~ (b) Make recommendations to and discuss recommendations with the Secretary of State concerning matters brought to the attention of the Advisory Committee that relate to a program, activity, event or any combination thereof designed to increase or facilitate participatory democracy, including, without limitation, the interaction of citizens with governing bodies in the formulation and implementation of public policy;

~~(c)~~ (c) Establish a “Jean Ford Democracy Award” to honor citizens who perform exemplary service in promoting participatory democracy in this State;

~~(d)~~ (d) Support projects by national, state and local entities that encourage and advance participatory democracy, including programs established by the National Conference of State Legislatures, the State Bar of Nevada, and other public and private organizations; and

~~(e)~~ (e) Advise the Secretary of State and the Governor concerning the substance of any proclamation issued by the Governor pursuant to NRS 236.035.

2. The Advisory Committee may establish a panel to assist the Advisory Committee in carrying out its duties and responsibilities. The panel may consist of:

(a) Representatives of organizations, associations, groups or other entities committed to improving participatory democracy in this State, including, without limitation, representatives of committees that are led by youths and established to improve the teaching of the principles of participatory democracy in the schools, colleges and universities of this State; and

(b) Any other interested persons with relevant knowledge.

Sec. 6. NRS 236.035 is hereby amended to read as follows:

236.035 1. The Governor may annually proclaim the third week in September to be “Constitution Week” and September 17 to be “Constitution Day” to commemorate the historical contributions that the United States Constitution has made to citizens and its significance in preserving the individual freedoms, liberties and common welfare of the people who live in the United States of America.

2. The proclamation may:

(a) Call upon the news media, educators, state and local officers, professional, business and labor leaders, and others in positions of authority or influence to bring to the attention of the citizens of this State the importance of the United States Constitution in shaping and articulating the basic values that underlie the unique character of American civilization and culture, based on the belief that sovereignty emanates from the people who comprise a society and that governmental authority is based upon the consent of the governed;

(b) Encourage elected and appointed officers and employees at all levels of government and in all public and educational institutions to develop new programs and new ideas by which the citizens of this State and nation can:

(1) Better understand and improve the effectiveness of all branches of government established within the American constitutional system; and

(2) Increase the extent and quality of their participation in the development of public policy and the improvement of the operation of government at all levels;

(c) Encourage citizens of this State to assist elected and appointed officers and employees at all levels of government, and in all public and educational institutions, to develop new programs and new ideas to increase the extent and quality of the participation of the citizens of this State in the development of public policy and the improvement of the operation of government at all levels;

(d) Direct interested citizens and appropriate officers and agencies to develop recommendations by which federal, state and local policies for the preservation of historical records can be formulated and put into effect, so that the cultural and informational resources that are essential to a constitutional form of government are preserved and made accessible to present and future generations of citizens;

(e) Remind all citizens that the preservation of the American constitutional form of government, and the freedom and liberty guaranteed by the United States Constitution, are based upon the responsibility of each citizen to uphold and defend the Constitution; and

(f) Request all citizens to submit any information they may have concerning a program, activity, event, proposal or any other action to increase the extent and quality of participation of citizens in the:

(1) Development of public policy; and

(2) Improvement of the operation of government at all levels,

➔ to the ~~repository created pursuant to NRS 378.400.~~ *Division of State Library and Archives of the Department of Administration.*

Sec. 7. NRS 239.070 is hereby amended to read as follows:

239.070 1. In lieu of or in addition to the method of recording required or allowed by statute, the county recorder may use microfilm *or digital images* for such recording.

2. The Division shall provide microfilming ~~service~~ *or digital imaging services* to any local government. The charge for the service must not exceed the actual cost ~~of providing the services.~~

3. If microfilming *or digital imaging* is used:

(a) The microphotographs, ~~for~~ *micronegative films or digital images* must be properly indexed and placed in conveniently accessible files.

(b) Each film *or digital image* must be designated and numbered.

(c) Provision must be made for preserving, examining and using the films ~~for~~ *or digital images.*

4. A duplicate of each such film *or digital image* must be made and kept safely in a separate place.

5. Duplicates of each such film *or digital image* must be made available by the county recorder for sale at a price not exceeding cost upon the request of any person, firm or organization. Subject to the approval of the board of county commissioners, the county recorder may, at any time, make additional duplicates of each such film *or digital image* available for sale to the public at a price not exceeding cost.

6. The Division shall provide services for recording other than microfilming *or digital imaging* to any local government if the Division has the equipment necessary to provide the services. The services provided are subject to the requirements of this section relating to microfilming ~~for~~ *or digital imaging.*

Sec. 8. NRS 244.1615 is hereby amended to read as follows:

244.1615 A board of county commissioners may institute a program or sponsor an activity, event or any other action designed to increase the extent and quality of participation of the residents of the county in the development of public policy and the improvement of the operation of government at all levels. The board may submit a report of any action taken pursuant to this section to the ~~repository created pursuant to NRS 378.400.~~ *Division of State Library and Archives of the Department of Administration.*

Sec. 9. NRS 268.920 is hereby amended to read as follows:

268.920 The city council or other governing body of an incorporated city may institute a program or sponsor an activity, event or any other action designed to increase the extent and quality of participation of the residents within the incorporated city in the development of public policy and the improvement of the operation of government at all levels. The city council or other governing body of an incorporated city may submit a report of any action taken pursuant to this section to the ~~repository created pursuant to NRS 378.400.~~ *Division of State Library and Archives of the Department of Administration.*

- 1 **Sec. 10.** NRS 225.230, 378.120, 378.260 and 378.400 are hereby repealed.
2 **Sec. 11.** This act becomes effective upon passage and approval.

LEADLINES OF REPEALED SECTIONS

- 225.230 **“Repository” defined.**
378.120 **Charges for copy of papers and documents and duplicate of roll
of microfilm.**
378.260 **Agreement to maintain material of Secretary of State in archives.**
378.400 **Creation; contents; powers and duties of Director; Advisory
Committee.**