

SENATE BILL NO. 408—SENATORS SMITH, DENIS, WOODHOUSE,
SPEARMAN, PARKS; AND ATKINSON

MARCH 18, 2013

JOINT SPONSORS: ASSEMBLYMEN KIRKPATRICK;
DONDERO LOOP AND SPRINKLE

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing state financial
administration. (BDR 31-828)

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 state financial administration; requiring a state agency to assess and review certain future and existing contracts to privatize a governmental service provided by the state agency; requiring a state agency to submit such an assessment or review to the Chief of the Budget Division of the Department of Administration for inclusion in the proposed budget of the Executive Department of the State Government; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 8** of this bill requires a state agency to develop a privatization plan for
2 any proposal to privatize a governmental service through the execution of a
3 privatization contract if the proposal has an expected cost to the state agency of at
4 least \$100,000 during a biennium. **Sections 9 and 14** of this bill require a state
5 agency to conduct a performance review of certain current or expired privatization
6 contracts if the aggregate costs to and expenditures of the state agency exceed a
7 certain amount. **Section 10** of this bill requires a state agency to transmit such
8 privatization plans and performance reviews to the Chief of the Budget Division of
9 the Department of Administration for inclusion in the next proposed biennial
10 budget of the Executive Department of the State Government. **Section 14** further
11 requires a state agency to submit the performance reviews of certain privatization
12 contracts to the Interim Finance Committee on or before June 30, 2014.



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 the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *As used in sections 2 to 11, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 7, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Cost-benefit analysis” means a systematic process of calculating the direct and indirect baseline costs, savings and qualitative and quantitative benefits which are derived from or the result of the implementation of a policy of a state agency.*

Sec. 4. *“Division” means the Budget Division of the Department of Administration.*

Sec. 5. *“Governmental service” means any service, program or activity which a state agency is authorized or required to provide and for which the state agency may execute a privatization contract.*

Sec. 6. *“Privatization contract” has the meaning ascribed to it in subsection 8 of NRS 353.210.*

Sec. 7. *“State agency” has the meaning ascribed to it in NRS 353.540.*

Sec. 8. 1. *A state agency shall develop a privatization plan for any proposal to privatize a governmental service through the execution of a privatization contract if the proposal has an expected cost to the state agency of at least \$100,000 during a biennium. A privatization plan must include:*

(a) A description of the governmental service.

(b) If applicable, an analysis of the current performance of the state agency with respect to the provision of the governmental service.

(c) A statement of the goals of the state agency with respect to the provision of the governmental service and the rationale for such goals.

(d) A description and cost-benefit analysis of each option which is available to achieve the stated goals of the state agency, including the option to provide the governmental service using state employees.

(e) A description of the current market as it relates to privatizing the governmental service.

(f) A citation to the existing provision of statute or regulation which authorizes or requires the state agency to provide the governmental service.



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1 (g) *If applicable, a description of any differences between the*
2 *policy in this State and the policy in other states and territories of*
3 *the United States relative to the provision of the governmental*
4 *service.*

5 (h) *A description of the specific minimum performance*
6 *standards that must be met to ensure adequate performance under*
7 *a privatization contract.*

8 (i) *A projected schedule for the duration of any privatization*
9 *contract.*

10 (j) *A plan to ensure compliance with the applicable provisions*
11 *of law governing public records and confidentiality.*

12 (k) *A contingency plan to address any nonperformance of a*
13 *contractor, including a description of the tasks and costs*
14 *associated with such a contingency plan.*

15 (l) *A transition plan to address any projected changes in the*
16 *organization, duties, management or personnel of the state agency*
17 *as the result of privatizing the governmental service.*

18 (m) *A plan for ensuring access to the governmental service by*
19 *persons with disabilities in compliance with the applicable*
20 *provisions of state and federal law.*

21 2. *A state agency shall make a privatization plan developed*
22 *pursuant to subsection 1 available to the public.*

23 3. *A privatization plan developed pursuant to subsection 1 is*
24 *not subject to challenge by any person soliciting a state agency for*
25 *the award of a privatization contract.*

26 **Sec. 9.** *A state agency shall, on or before August 15 of each*
27 *even-numbered year, for the immediately preceding 2 fiscal years,*
28 *conduct a performance review of each current or expired*
29 *privatization contract of the state agency for the provision of any*
30 *governmental service during that period if the aggregate costs to*
31 *and expenditures of the state agency relative to the privatization*
32 *contract exceed \$100,000 during that period. A performance*
33 *review must include:*

34 1. *A cost-benefit analysis.*

35 2. *An assessment of the performance of the contractor.*

36 3. *A comparison of anticipated service levels to actual service*
37 *levels.*

38 4. *A comparison of anticipated savings to actual savings.*

39 **Sec. 10.** *A state agency shall, on or before September 1 of*
40 *each even-numbered year, transmit to the Chief of the Division for*
41 *inclusion in the proposed budget of the Executive Department:*

42 1. *Any privatization plan developed pursuant to section 8 of*
43 *this act.*

44 2. *Any performance review conducted pursuant to section 9*
45 *of this act.*



3. For each privatization contract of the state agency pursuant to which the consideration to be paid to the state agency is a percentage of the revenue of the contractor and is more than \$100,000 during the term of contract:

- (a) The name of the contractor;
- (b) A description of the services provided by the contractor;
- (c) The original and remaining term of the contract;
- (d) The amount of revenue generated or expected to be generated by the contractor under the contract for the preceding, current and next fiscal year;
- (e) The amount of revenue remitted or expected to be remitted to the state agency by the contractor for the preceding, current and next fiscal year;
- (f) The value of capital improvements, if any, on state property which have been funded by the contractor over the term of the contract;
- (g) The remaining amount of capital improvements, if any, on state property which have not been fully amortized; and
- (h) The amount, if any, of state appropriations made to the state agency to pay for any governmental service provided by the contractor.

Sec. 11. The Division may adopt regulations prescribing:

1. Any additional information which must be included by a state agency:

- (a) In a privatization plan developed pursuant to section 8 of this act.
- (b) In a performance review conducted pursuant to section 9 of this act.

2. The methodology for performing any cost-benefit analysis which must be included with a privatization plan developed pursuant to section 8 of this act or a performance review conducted pursuant to section 9 of this act.

Sec. 12. 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:

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

(II) Other governmental services;



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

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

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

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

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

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

(II) Other governmental services,
➔ and of each intermediate objective for the next 2 fiscal years toward achieving those goals.

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

(3) A mission statement and measurement indicators for each department, institution and other agency of the Executive Department of the State Government, which articulate the



1 intermediate objectives and long-term performance goals each such
2 department, institution and other agency is tasked with achieving
3 and the particular measurement indicators tracked for each such
4 department, institution and other agency to determine whether the
5 department, institution or other agency is successful in achieving its
6 intermediate objectives and long-term performance goals, provided
7 in sufficient detail to assist the Legislature in performing an analysis
8 of the relative costs and benefits of program budgets and in
9 determining priorities for expenditures. If available, information
10 regarding such measurement indicators must be provided for each of
11 the previous 4 fiscal years. If a new measurement indicator is being
12 added, a rationale for that addition must be provided. If a
13 measurement indicator is being modified, information must be
14 provided regarding both the modified indicator and the indicator as
15 it existed before modification. If a measurement indicator is being
16 deleted, a rationale for that deletion and information regarding the
17 deleted indicator must be provided.

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

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

25 (c) Part 3 *must include the information submitted to the Chief*
26 *by a state agency pursuant to section 10 of this act.*

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

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

40 3. Except for the information provided to the Fiscal Analysis
41 Division of the Legislative Counsel Bureau pursuant to NRS
42 353.211, parts 1 and 2 of the proposed budget are confidential until
43 the Governor transmits the proposed budget to the Legislature
44 pursuant to NRS 353.230, regardless of whether those parts are in
45 the possession of the Executive or Legislative Department of the



1 State Government. Part ~~13~~ 4 of the proposed budget is confidential
2 until the bills which result from the proposed budget are introduced
3 in the Legislature. As soon as practicable after the Governor
4 transmits the proposed budget to the Legislature pursuant to NRS
5 353.230, the information required to be included in the proposed
6 budget pursuant to subparagraphs (1), (2) and (3) of paragraph (b) of
7 subsection 1 must be posted on the Internet websites maintained by
8 the Governor, the Department of Administration and the Budget
9 Division of the Department of Administration.

10 **Sec. 13.** NRS 353.210 is hereby amended to read as follows:

11 353.210 1. Except as otherwise provided in subsection 6, on
12 or before September 1 of each even-numbered year, all departments,
13 institutions and other agencies of the Executive Department of the
14 State Government, and all agencies of the Executive Department of the
15 State Government receiving state money, fees or other money
16 under the authority of the State, including those operating on money
17 designated for specific purposes by the Nevada Constitution or
18 otherwise, shall prepare, on blanks furnished them by the Chief, and
19 submit to the Chief:

20 (a) The number of full-time equivalent positions within the
21 department, institution or agency.

22 (b) The number of full-time equivalent positions within the
23 department, institution or agency that have been vacant for at least
24 12 months, the number of months each such position has been
25 vacant and the reasons for each such vacancy.

26 (c) Any existing contracts for services the department,
27 institution or agency has with temporary employment services or
28 other persons, the proposed expenditures for such contracts in the
29 next 2 fiscal years and the reasons for the use of such services. If
30 such contracts include any privatization contracts, a copy of each of
31 those privatization contracts together with:

32 (1) A statement specifying the duration of the privatization
33 contracts;

34 (2) The number of privatization contracts proposed for the
35 next 2 fiscal years and the estimated expenditures for the
36 privatization contracts; ~~and~~

37 (3) An analysis of each of the privatization contracts, which
38 includes, without limitation:

39 (I) For the preceding, current and next fiscal years, the
40 annual amount required to perform each of the privatization
41 contracts; and

42 (II) For the preceding and current fiscal years, the number
43 of persons the department, institution or agency employed pursuant
44 to the privatization contracts, reflected as the equivalent full-time
45 position if the persons were regularly employed by the department,



1 institution or agency, including the equivalent hourly wage and the
2 cost of benefits for each job classification **H; and**

3 ***(4) Any other information which relates to a privatization***
4 ***contract and which must be submitted to the Chief pursuant to***
5 ***section 10 of this act.***

6 (d) Estimates of expenditure requirements of the department,
7 institution or agency, together with all anticipated income from fees
8 and all other sources, for the next 2 fiscal years compared with the
9 corresponding figures of the last completed fiscal year and the
10 estimated figures for the current fiscal year.

11 2. The Chief shall direct that one copy of the forms submitted
12 pursuant to subsection 1, accompanied by every supporting schedule
13 and any other related material, be delivered directly to the Fiscal
14 Analysis Division of the Legislative Counsel Bureau on or before
15 September 1 of each even-numbered year.

16 3. The Budget Division of the Department of Administration
17 shall give advance notice to the Fiscal Analysis Division of the
18 Legislative Counsel Bureau of any conference between the Budget
19 Division of the Department of Administration and personnel of
20 other state agencies regarding budget estimates. A Fiscal Analyst of
21 the Legislative Counsel Bureau or his or her designated
22 representative may attend any such conference.

23 4. The estimates of expenditure requirements submitted
24 pursuant to subsection 1 must be classified to set forth the data
25 of funds, organizational units, and the character and objects of
26 expenditures by program or budgetary account and by category of
27 expense, and must include a mission statement and measurement
28 indicators in adequate detail to comply with the requirements of
29 subparagraph (3) of paragraph (b) of subsection 1 of NRS 353.205.
30 The organizational units may be subclassified by functions and by
31 agencies, bureaus or commissions, or in any other manner at the
32 discretion of the Chief.

33 5. If any department, institution or other agency of the
34 Executive Department of the State Government, whether its money
35 is derived from state money or from other money collected under
36 the authority of the State, fails or neglects to submit estimates of its
37 expenditure requirements as provided in this section, the Chief may,
38 from any data at hand in the Chief's office or which the Chief may
39 examine or obtain elsewhere, make and enter a proposed budget for
40 the department, institution or agency in accordance with the data.

41 6. Agencies, bureaus, commissions and officers of the
42 Legislative Department, the Public Employees' Retirement System
43 and the Judicial Department of the State Government shall submit to
44 the Chief for his or her information in preparing the proposed



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1 executive budget the budgets which they propose to submit to the
2 Legislature.

3 7. The information provided by a department, institution or
4 agency pursuant to paragraph (c) of subsection 1 is a public record
5 and must be open to public inspection.

6 8. As used in this section, "privatization contract" means a
7 contract executed by or on behalf of a department, institution or
8 agency which authorizes a private entity to provide public services
9 which are:

10 (a) Substantially similar to the services performed by the public
11 employees of the department, institution or agency; and

12 (b) In lieu of the services otherwise authorized or required to be
13 provided by the department, institution or agency.

14 **Sec. 14.** 1. Each state agency shall:

15 (a) On or before August 15, 2014:

16 (1) Conduct a performance review pursuant to the provisions
17 of section 9 of this act for any current or expired privatization
18 contract of the state agency for the provision of any governmental
19 service during the 2 fiscal years beginning on July 1, 2012, for
20 which the aggregate costs to and expenditures of the state agency
21 relative to the privatization contract during that period exceeded
22 \$5,000,000; and

23 (2) Submit the performance review to the Interim Finance
24 Committee.

25 (b) On or before September 1, 2014, submit to the Chief of the
26 Budget Division of the Department of Administration the initial
27 privatization plan, performance review and information required by
28 sections 8, 9 and 10 of this act for each privatization contract
29 described in those sections.

30 2. As used in this section:

31 (a) "Governmental service" means any service, program or
32 activity which a state agency is authorized to provide and for which
33 the state agency may execute a privatization contract.

34 (b) "Privatization contract" has the meaning ascribed to it in
35 subsection 8 of NRS 353.210.

36 (c) "State agency" has the meaning ascribed to it in
37 NRS 353.540.

38 **Sec. 15.** This act becomes effective:

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

42 2. On July 1, 2013, for all other purposes.

