

Assembly Bill No. 17–Committee on Taxation

CHAPTER.....

AN ACT relating to economic development; providing for the establishment by the Executive Director of the Office of Economic Development of a nonprofit entity for certain economic development purposes; revising provisions governing the confidentiality of certain records and documents; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 3.5 of this bill authorizes the Executive Director of the Office of Economic Development to cause the formation of a nonprofit entity for certain economic development purposes upon approval by the Board of Economic Development. **Section 3.5** specifies the manner in which the board of directors of the nonprofit entity must be appointed, and requires the board to submit an annual report to the Legislative Counsel Bureau. **Section 3.5** further provides that certain records and documents in the possession of the nonprofit corporation must be kept confidential to the same extent that records and documents in the possession of the Office must be kept confidential. Finally, **section 3.5** requires the Office to adopt regulations prescribing: (1) the means by which the Office will verify and ensure that the nonprofit corporation will further the public interest in economic development; and (2) the procedures by which the Office will ensure that records and documents used by the nonprofit corporation will be kept confidential when those records and documents are required to be kept confidential under existing law.

Existing law requires the Office to keep confidential certain records and documents. (NRS 231.069) **Section 4** of this bill establishes a procedure by which a client of the Office may request that the Office keep confidential certain records and documents of the client and requires the Office to keep confidential those records and documents if the Office finds that the records and documents contain proprietary or confidential information.

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

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

Sections 1-3. (Deleted by amendment.)

Sec. 3.5. Chapter 231 of NRS is hereby amended by adding thereto a new section to read as follows:

1. After considering any pertinent advice and recommendations of the Board, the Executive Director may:

(a) Propose to the Board the formation of a nonprofit corporation that is exempt from federal income taxation, the purpose of which is to promote, aid and encourage economic development in this State or a locality or region of this State; and



(b) Upon approval of a proposal by the Board, cause such a corporation to be formed.

2. The Board shall:

(a) Review each proposal by the Executive Director pursuant to subsection 1; and

(b) As the Board determines to be in the best interests of this State, approve, disapprove or modify the proposal made by the Executive Director.

3. A nonprofit corporation formed pursuant to this section must have a board of directors consisting of:

(a) The Executive Director.

(b) Four members from the private sector who have at least 10 years of experience in the field of investment, finance, accounting, technology, commercialization or banking, appointed by the Executive Director, with the approval of the Board.

(c) One member appointed by the Speaker of the Assembly.

(d) One member appointed by the Senate Majority Leader.

4. The Executive Director shall serve as chair of the board of directors of the nonprofit corporation formed pursuant to this section.

5. Except as otherwise provided in this subsection, each member appointed to the board of directors of the nonprofit corporation formed pursuant to this section serves a term of 4 years. Two of the initial members of the board of directors who are appointed pursuant to paragraph (b) of subsection 3 must be appointed to an initial term of 2 years.

6. Each member of the board of directors of the nonprofit corporation formed pursuant to this section continues in office until a successor is appointed. Members of the board of directors may be reappointed for additional terms of 4 years in the same manner as the original appointments.

7. Vacancies in the appointed positions on the board of directors of the nonprofit corporation formed pursuant to this section must be filled by the appointing authority for the unexpired term.

8. The members of the board of directors of the corporation formed pursuant to this section must serve without compensation but are entitled to be reimbursed for actual and necessary expenses incurred in the performance of their duties, including, without limitation, travel expenses.

9. A member of the board of directors of the corporation formed pursuant to this section must not have an equity interest in any:



(a) *External asset manager or venture capital or private equity investment firm contracting with the nonprofit corporation; or*

(b) *Business which receives private equity funding from the nonprofit corporation.*

10. *The nonprofit corporation shall keep confidential any record or other document of a client which is in its possession to the same extent that the record or other document would be required to be kept confidential pursuant to NRS 231.069.*

11. *The board of directors of the nonprofit corporation formed pursuant to this section shall, on or before December 1 of each year, provide an annual report to the Governor and the Director of the Legislative Counsel Bureau for transmission to the next session of the Legislature, if the report is submitted in an even-numbered year or to the Legislative Commission, if the report is submitted in an odd-numbered year. The report must include, without limitation:*

(a) *An accounting of all money received and expended by the nonprofit corporation, including, without limitation, any matching grant funds, gifts or donations; and*

(b) *The name and a brief description of all businesses receiving an investment of money from the nonprofit corporation formed pursuant to this section.*

12. *Under the direction of the Executive Director, the Office shall adopt regulations prescribing:*

(a) *The means by which the Office will verify that a nonprofit corporation formed pursuant to this section furthers the public interest in economic development and ensure that the nonprofit corporation carries out such a purpose; and*

(b) *The procedures the Office will follow to ensure that the records and documents that are confidential pursuant to NRS 231.069 will be kept confidential when the records or other documents are used by a nonprofit corporation created pursuant to this section.*

Sec. 4. NRS 231.069 is hereby amended to read as follows:

231.069 1. Except as otherwise provided in *subsection 3 and NRS 239.0115* ~~if so requested by a client,~~ *and 360.950*, the Office shall keep confidential any record or other document *of a client which is* in its possession ~~concerning the initial contact with and research and planning for that client. If such a request is made,~~ *if the client:*

(a) *Submits a request in writing that the record or other document be kept confidential by the Office; and*



(b) Demonstrates to the satisfaction of the Office that the record or other document contains proprietary or confidential information.

2. If the Office determines that a record or other document of a client contains proprietary or confidential information, the Executive Director shall attach to the file containing the record or document ~~1a~~ :

(a) A certificate signed by him or her stating that a request for confidentiality was made by the client and the date of the request ~~1~~ ~~2~~ ;

(b) A copy of the written request submitted by the client;

(c) The documentation to support the request which was submitted by the client; and

(d) A copy of the decision of the Office determining that the record or other document contains proprietary or confidential information.

3. The Office may share the records and other documents that are confidential pursuant to this section with the nonprofit corporation formed by the Executive Director pursuant to section 3.5 of this act, as deemed necessary by the Office to accomplish the purposes for which the nonprofit corporation was formed.

4. Records and documents that are confidential pursuant to ~~subsection 1~~ this section: ~~remain confidential until the client:~~

~~—(a) Initiates any process regarding the location of his or her business in Nevada which is within the jurisdiction of a state agency other than the Office; or~~

~~—(b) Decides to locate his or her business in Nevada.~~

(a) Are proprietary or confidential information of the business;

(b) Are not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the Office unless the business consents to the disclosure.

5. As used in this section, “proprietary or confidential information” has the meaning ascribed to it in NRS 360.247.

Sec. 5. NRS 231.069 is hereby amended to read as follows:

231.069 1. Except as otherwise provided in subsection 3 and NRS 239.0115 , ~~and NRS 360.950,~~ the Office shall keep confidential any record or other document of a client which is in its possession if the client:

(a) Submits a request in writing that the record or other document be kept confidential by the Office; and



(b) Demonstrates to the satisfaction of the Office that the record or other document contains proprietary or confidential information.

2. If the Office determines that a record or other document of a client contains proprietary or confidential information, the Executive Director shall attach to the file containing the record or document:

(a) A certificate signed by him or her stating that a request for confidentiality was made by the client and the date of the request;

(b) A copy of the written request submitted by the client;

(c) The documentation to support the request which was submitted by the client; and

(d) A copy of the decision of the Office determining that the record or other document contains proprietary or confidential information.

3. The Office may share the records and other documents that are confidential pursuant to this section with the nonprofit corporation formed by the Executive Director pursuant to section 3.5 of this act, as deemed necessary by the Office to accomplish the purposes for which the nonprofit corporation was formed.

4. Records and documents that are confidential pursuant to this section:

(a) Are proprietary or confidential information of the business;

(b) Are not a public record; and

(c) Must not be disclosed to any person who is not an officer or employee of the Office unless the business consents to the disclosure.

5. As used in this section, "proprietary or confidential information" has the meaning ascribed to it in NRS 360.247.

Sec. 5.5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 6. 1. This section and sections 1 to 4, inclusive, of this act become effective:

(a) Upon passage and approval for the purpose of adopting regulations and performing any other preparatory administrative tasks that are necessary to carry out the provisions of this act; and

(b) On July 1, 2015, for all other purposes.

2. Section 5 of this act becomes effective on July 1, 2036.

