

Amendment No. 428

Assembly Amendment to Assembly Bill No. 17	(BDR 18-292)
Proposed by: Assembly Committee on Taxation	
Amends: Summary: Yes 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) variations of green bold underlining is language proposed to be added 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 proposed to be retained in this amendment.

BJF/BJE



Date: 4/19/2015

A.B. No. 17—Provides for the establishment of a nonprofit entity for certain economic development purposes. (BDR 18-292)



ASSEMBLY BILL NO. 17—COMMITTEE ON TAXATION

(ON BEHALF OF THE OFFICE OF ECONOMIC DEVELOPMENT)

PREFILED DECEMBER 20, 2014

Referred to Committee on Taxation

SUMMARY—~~[Provides for the establishment of a nonprofit entity for certain~~
Revises provisions relating to economic development .
~~[purposes.]~~ (BDR 18-292)

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 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:

~~[This]~~ Section 3.5 of this bill ~~[provides for the establishment by]~~ authorizes the Executive Director of the Office of Economic Development to cause the formation of a nonprofit entity for certain economic development purposes. ~~[Section 2 of this bill authorizes the Executive Director to propose the formation of a nonprofit entity 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. Under section 1 of this bill, upon approval by the Board of Economic Development, he is required to review the Executive Director's proposal and approve, disapprove or modify the proposal. Section 2 authorizes the Executive Director to form the nonprofit corporation with the approval of the Board.]~~ Section ~~[2]~~ 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 ~~[2 of this bill]~~ 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.

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

Section 1. ~~NRS 231.037 is hereby amended to read as follows:~~

~~231.037 The Board shall:~~

~~1. Review and evaluate all programs of economic development in this State and make recommendations to the Legislature for legislation to improve the effectiveness of those programs in implementing the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053.~~

~~2. Recommend to the Executive Director a State Plan for Economic Development and make recommendations to the Executive Director for carrying out the State Plan for Economic Development, including, without limitation, recommendations regarding the development and implementation of a recruiting and marketing effort to attract professionals and businesses to this State.~~

~~3. Recommend to the Executive Director the criteria for the designation of regional development authorities.~~

~~4. Make recommendations to the Executive Director for the designation for the southern region of this State, the northern region of this State and the rural region of this State, one or more regional development authorities for each region.~~

~~5. Provide advice and recommendations to the Executive Director concerning:~~

~~(a) The procedures to be followed by any entity seeking to obtain any development resource, allocation, grant or loan from the Office;~~

~~(b) The criteria to be used by the Office in providing development resources and making allocations, grants and loans;~~

~~(c) The requirements for reports from the recipients of development resources, allocations, grants and loans from the Office concerning the use thereof; and~~

~~(d) Any other activities of the Office.~~

~~6. Review each proposal by the Executive Director to enter into a contract pursuant to NRS 231.057 for more than \$100,000 or allocate, grant or loan more than \$100,000 to any entity and, as the Board determines to be in the best interests of the State, approve or disapprove the proposed allocation, grant or loan. Notwithstanding any other statutory provision to the contrary, the Executive Director shall not enter into any contract pursuant to NRS 231.057 for more than \$100,000 or make any allocation, grant or loan of more than \$100,000 to any entity unless the allocation, grant or loan is approved by the Board.~~

~~7. Review each proposal by the Executive Director pursuant to subsection 7 of NRS 231.053 to form 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, as the Board determines to be in the best interests of this State, approve, disapprove or modify the proposal made by the Executive Director.~~ **(Deleted by amendment.)**

Sec. 2. ~~NRS 231.052 is hereby amended to read as follows:~~

~~231.052 After considering any pertinent advice and recommendations of the Board, the Executive Director:~~

~~1. Shall direct and supervise the administrative and technical activities of the Office.~~

~~2. Shall develop and may periodically revise a State Plan for Economic Development, which must include a statement of:~~

~~(a) New industries which have the potential to be developed in this State;~~

~~(b) The strengths and weaknesses of this State for business incubation;~~

~~(c) The competitive advantages and weaknesses of this State;~~

~~(d) The manner in which this State can leverage its competitive advantages and address its competitive weaknesses;~~

~~(e) A strategy to encourage the creation and expansion of businesses in this State and the relocation of businesses to this State; and~~

~~(f) Potential partners for the implementation of the strategy, including, without limitation, the Federal Government, local governments, local and regional organizations for economic development, chambers of commerce, and private businesses, investors and nonprofit entities.~~

~~2. Shall develop criteria for the designation of regional development authorities pursuant to subsection 4.~~

~~4. Shall designate as many regional development authorities for each region of this State as the Executive Director determines to be appropriate to implement the State Plan for Economic Development. In designating regional development authorities, the Executive Director must consult with local governmental entities affected by the designation. The Executive Director may, if he or she determines that such action would aid in the implementation of the State Plan for Economic Development, remove the designation of any regional development authority previously designated pursuant to this section and declare void any contract between the Office and that regional development authority.~~

~~5. Shall establish procedures for entering into contracts with regional development authorities to provide services to aid, promote and encourage the economic development of this State.~~

~~6. May apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of NRS 231.020 to 231.139, inclusive, and 231.1573 to 231.1597, inclusive.~~

~~7. May 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, with the approval of the Board, form such a nonprofit corporation. 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 kept confidential pursuant to NRS 231.069.~~

~~8. May adopt such regulations as may be necessary to carry out the provisions of NRS 231.020 to 231.139, inclusive, and 231.1573 to 231.1597, inclusive.~~

~~[8.] 9. In a manner consistent with the laws of this State, may reorganize the programs of economic development in this State to further the State Plan for Economic Development. If, in the opinion of the Executive Director, changes to the laws of this State are necessary to implement the economic development strategy for this State, the Executive Director must recommend the changes to the Governor and the Legislature.] (Deleted by amendment.)~~

Sec. 3. [NRS 231.055 is hereby amended to read as follows:

~~231.055 Under the direction of the Executive Director, the Office:~~

~~1. Shall provide administrative and technical support to the Board;~~

~~2. Shall support the efforts of the Board, the regional development authorities designated by the Executive Director pursuant to subsection 4 of NRS 231.053 and the private sector to encourage the creation and expansion of businesses in Nevada and the relocation of businesses to Nevada;~~

~~3. Shall coordinate and oversee all economic development programs in this State to ensure that such programs are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053, including, without limitation:~~

~~(a) Coordinating the economic development activities of agencies of this State, local governments in this State and local and regional organizations for economic development to avoid duplication of effort or conflicting efforts;~~

~~(b) Working with local, state and federal authorities to streamline the process for obtaining abatements, financial incentives, grants, loans and all necessary permits and licenses for the creation or expansion of businesses in Nevada or the relocation of businesses to Nevada; and~~

~~(c) Reviewing, analyzing and making recommendations for the approval or disapproval of applications for abatements, financial incentives, development resources, and grants and loans of money provided by the Office.~~

~~4. Shall adopt regulations prescribing:~~

~~(a) The means by which the Office will verify that a nonprofit corporation formed by the Executive Director pursuant to subsection 7 of NRS 231.053 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 formed by the Executive Director pursuant to subsection 7 of NRS 231.053.~~

~~5. May:~~

~~(a) Participate in any federal programs for economic development that are consistent with the State Plan for Economic Development developed by the Executive Director pursuant to subsection 2 of NRS 231.053; and~~

~~(b) When practicable and authorized by federal law, act as the agency of this State to administer such federal programs.] (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.

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

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

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

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

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

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

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

23 10. The nonprofit corporation shall keep confidential any record or other
24 document of a client which is in its possession to the same extent that the record
25 or other document would be required to be kept confidential pursuant to NRS
26 231.069.

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

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

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

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

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

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

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

50 231.069 1. Except as otherwise provided in **subsection 3** and NRS
51 239.0115 ~~1. Except as otherwise provided in subsection 3 and 360.950, the Office shall keep~~
52 ~~confidential any record or other document of a client which is~~ **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 ~~{a} :~~

~~(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 {a} :~~

~~2-1 ;~~

~~(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 {subsection 7 of NRS 231.053,} 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

1 Director pursuant to section 3.5 of this act, as deemed necessary by the Office to
2 accomplish the purposes for which the nonprofit corporation was formed.

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

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

5 (b) Are not a public record; and

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

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

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

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

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

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

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