

Amendment No. 437

Assembly Amendment to Assembly Bill No. 231	(BDR 18-294)
Proposed by: Assembly Committee on Taxation	
Amends: Summary: No 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) 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.





ASSEMBLY BILL NO. 231—ASSEMBLYWOMAN  
BUSTAMANTE ADAMS

FEBRUARY 22, 2017

Referred to Committee on Taxation

SUMMARY—Revises provisions relating to economic development.  
(BDR 18-294)FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

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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; ~~revising the requirements for the State Plan for Economic Development; revising provisions governing the establishment by the Executive Director of the Office of Economic Development of nonprofit corporations for certain economic development purposes; revising provisions governing the confidentiality of certain records, documents and communications;~~ revising the deadline for the submission of certain reports concerning local emerging small businesses by the Office ~~of~~ **of Economic Development**; repealing provisions requiring the Office to take certain actions concerning the development of inland ports; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

~~Existing law requires the Executive Director of the Office of Economic Development to submit a State Plan for Economic Development addressing this State's relative competitive strengths and weaknesses. (NRS 231.053) Section 1 of this bill removes the requirement to report this State's weaknesses in the State Plan for Economic Development.~~

~~Existing law authorizes the Executive Director of the Office to cause the formation of a nonprofit corporation for certain economic development purposes upon approval by the Board of Economic Development and imposes certain requirements on such a nonprofit corporation. (NRS 231.0545) Section 2 of this bill revises this provision so that: (1) those requirements apply only to a nonprofit corporation formed for the purpose of making investments in businesses in this State; and (2) the Office is specifically authorized to provide administrative support to the nonprofit corporation. Section 1 further authorizes: (1) the Executive Director to form additional nonprofit corporations after considering the advice and recommendations of the Board of Economic Development; and (2) the Office to provide administrative support to such nonprofit corporations.~~

~~Existing law requires the Office to keep confidential certain records and documents. (NRS 231.069) Section 3 of this bill extends this confidentiality to any communication between an employee or representative of the Office and a client of the Office or representative of such a client that is determined to contain proprietary or confidential information or information related to the business plans or opportunities of the client, proposed contracts or agreements of the client or the special knowledge, skills or expertise of~~

~~the client. Under section 3, such communications are confidential only until the client: (1) publicly discloses that the client is considering locating the client's business in this State or has decided to locate its business in this State; or (2) submits an application to the Office for an incentive for economic development.]~~

Existing law requires the Office of **Economic Development** to submit a report once each year to the Governor and the Legislature or the Interim Finance Committee, as applicable, concerning whether the goals for participation of the local emerging small businesses certified by the Office in certain purchasing and public works contracts are being met. Under existing law this report must include, without limitation, a summary of the information contained in certain biannual reports submitted to the Office by local governments and the Purchasing Division and State Public Works Division of the Department of Administration. (NRS 231.14075) While the Office's deadline for the submission of its annual report is September 15, the deadline for the submission of the biannual report required to be submitted by local governments after the end of the fiscal year is September 28. (NRS 231.14075, 332.201) **Section 4** of this bill revises the deadline for the submission of the Office's annual report concerning local emerging small businesses so that the report must be submitted to the Governor and the Legislature or the Interim Finance Committee, as applicable, on or before December 1 of that year.

Existing law requires the Office to take certain actions concerning the development of inland ports. (NRS 231.075) **Section 7** of this bill repeals this requirement.

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

**Section 1.** ~~[NRS 231.053 is hereby amended to read as follows:~~

~~231.053 After considering any 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:~~

~~(a) Must include a statement of:~~

~~(1) New industries which have the potential to be developed in this State;~~

~~(2) The strengths [and weaknesses] of this State for business incubation;~~

~~(3) The competitive advantages [and weaknesses] of this State;~~

~~(4) The manner in which this State can leverage its competitive advantages, [and address its competitive weaknesses;]~~

~~(5) A strategy to encourage the creation and expansion of businesses in this State and the relocation of businesses to this State; and~~

~~(6) 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; and~~

~~(b) Must not include provisions for the granting of any abatement, partial abatement or exemption from taxes or any other incentive for economic development to a person who will locate or expand a business in this State that is subject to the tax imposed pursuant to NRS 362.130 or the gaming license fees imposed by the provisions of NRS 463-270.~~

~~3. 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~~

1 authorities, the Executive Director must consult with local governmental entities  
2 affected by the designation. The Executive Director may, if he or she determines  
3 that such action would aid in the implementation of the State Plan for Economic  
4 Development, remove the designation of any regional development authority  
5 previously designated pursuant to this section and declare void any contract  
6 between the Office and that regional development authority.

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

10 ~~6. May cause the formation of a nonprofit corporation that is exempt from~~  
11 ~~federal income taxation, the purpose of which is to promote, aid and encourage~~  
12 ~~economic development in this State or a locality or region of this State. The~~  
13 ~~Office may provide administrative support to a nonprofit corporation created~~  
14 ~~pursuant to this subsection.~~

15 ~~7. May apply for and accept any gift, donation, bequest, grant or other source~~  
16 ~~of money to carry out the provisions of NRS 231.020 to 231.139, inclusive, and~~  
17 ~~231.1555 to 231.1597, inclusive.~~

18 ~~[7.] 8. May adopt such regulations as may be necessary to carry out the~~  
19 ~~provisions of NRS 231.020 to 231.139, inclusive, and 231.1555 to 231.1597,~~  
20 ~~inclusive.~~

21 ~~[8.] 9. In a manner consistent with the laws of this State, may reorganize the~~  
22 ~~programs of economic development in this State to further the State Plan for~~  
23 ~~Economic Development. If, in the opinion of the Executive Director, changes to the~~  
24 ~~laws of this State are necessary to implement the economic development strategy~~  
25 ~~for this State, the Executive Director must recommend the changes to the Governor~~  
26 ~~and the Legislature.] (Deleted by amendment.)~~

27 **Sec. 2.** ~~NRS 231.0545 is hereby amended to read as follows:~~

28 ~~231.0545 1. After considering any advice and recommendations of the~~  
29 ~~Board, the Executive Director may:~~

30 ~~(a) Propose to the Board the formation of a nonprofit corporation that is~~  
31 ~~exempt from federal income taxation, the purpose of which is to promote, aid and~~  
32 ~~encourage economic development in this State or a locality or region of this State~~  
33 ~~[-] by making investments in businesses in this State; and~~

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

36 ~~2. The Board shall:~~

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

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

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

43 ~~(a) The Executive Director.~~

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

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

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

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

52 ~~5. Except as otherwise provided in this subsection, each member appointed to~~  
53 ~~the board of directors of the nonprofit corporation formed pursuant to this section~~

1 serves a term of 4 years. Two of the initial members of the board of directors who  
2 are appointed pursuant to paragraph (b) of subsection 3 must be appointed to an  
3 initial term of 2 years.

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

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

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

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

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

19 ~~(b) Business which receives private equity funding from the nonprofit~~  
20 ~~corporation.~~

21 ~~10. The Office may provide administrative support to the nonprofit~~  
22 ~~corporation formed pursuant to this section.~~

23 ~~11. The nonprofit corporation formed pursuant to this section shall keep~~  
24 ~~confidential any record, [or other] document or communication of a client which~~  
25 ~~is in its possession to the same extent that the record, [or other] document or~~  
26 ~~communication would be required to be kept confidential pursuant to NRS~~  
27 ~~231.069.~~

28 ~~[11.] 12. The board of directors of the nonprofit corporation formed pursuant~~  
29 ~~to this section shall, on or before December 1 of each year, provide an annual report~~  
30 ~~to the Governor and the Director of the Legislative Counsel Bureau for~~  
31 ~~transmission to the next session of the Legislature, if the report is submitted in an~~  
32 ~~even numbered year or to the Legislative Commission, if the report is submitted in~~  
33 ~~an odd numbered year. The report must include, without limitation:~~

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

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

39 ~~[12.] 13. 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 purpose;~~  
44 ~~and~~

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

50 **Sec. 3. [NRS 231.069 is hereby amended to read as follows:**

51 ~~231.069 1. Except as otherwise provided in [subsection] subsections 3 and~~  
52 ~~4 and NRS 239.0115, 260.890 and 260.950, the Office shall keep confidential any~~  
53 ~~record or other document of a client or representative of a client which is in its~~

possession, and the Office and any employee or representative of the Office shall keep confidential any communication between an employee or representative of the Office and a client or representative of a client, whether by written, oral or other means of communication, if the client [.] or representative of the client:

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

(b) Demonstrates to the satisfaction of the Office that [the]:

(1) If the request concerns a record or other document, the record or other document contains proprietary or confidential information [.] ; or

(2) If the request concerns a communication between an employee or representative of the Office and the client or a representative of the client, the communication contains proprietary or confidential information or information concerning the business plans or opportunities of the client, the proposed terms of a contract or agreement or the special knowledge, skills or expertise of the client.

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] a record, document or communication that [are] is confidential pursuant to this section with [the] a nonprofit corporation formed by the Executive Director pursuant to NRS 231.053 or 231.0545, as deemed necessary by the Office to accomplish the purposes for which the nonprofit corporation was formed.

4. Any communication between an employee or representative of the Office and a client or representative of a client, whether by written, oral or other means of communication, that is confidential pursuant to this section is confidential only until the client or a representative of the client:

(a) Publishes for public distribution or otherwise makes available to the public generally or in the public domain information indicating that the client is considering locating the client's business in this State or has decided to locate the client's business in this State; or

(b) Submits an application to the Office for an incentive for economic development.

5. Records, [and] documents and communications 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] Except as otherwise provided in subsection 3, 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.] 6. As used in this section, "proprietary or confidential information" has the meaning ascribed to it in NRS 360.247. (Deleted by amendment.)

Sec. 4. NRS 231.14075 is hereby amended to read as follows:

231.14075 On or before [September 15] December 1 of each year, the Office shall submit a report to the Governor and to the Director of the Legislative Counsel Bureau for transmittal to the Interim Finance Committee, if the report is received

1 during an odd-numbered year, or to the next session of the Legislature, if the report  
2 is received during an even-numbered year. The report must include, without  
3 limitation, for the fiscal year immediately preceding the submission of the report:

4 1. A summary of the information submitted to the Office pursuant to NRS  
5 332.201, 333.177 and 338.1427 and, if applicable, paragraph (c) of subsection 2 of  
6 NRS 231.1407, including, without limitation, efforts undertaken to achieve any  
7 goals established by the Office which were not achieved in the current fiscal year  
8 and proposed action plans for achieving those goals in the subsequent fiscal year;  
9 and

10 2. The number of local emerging small businesses which are designated as  
11 tier 1 firms and tier 2 firms pursuant to NRS 231.1405. The numbers must be  
12 reported separately for businesses involved in providing construction services and  
13 for businesses involved in the sale of goods or in providing services other than  
14 construction services.

15 **Sec. 5.** NRS 277B.360 is hereby amended to read as follows:

16 277B.360 At the request of the Office, an authority shall report to the Office  
17 on all issues and activities necessary for the administration of the authority. ~~as~~  
18 ~~well as issues and activities pertaining to compliance with any rules or regulations~~  
19 ~~set forth by the Office for the creation, operation or maintenance of inland ports~~  
20 ~~pursuant to NRS 231.075.]~~

21 **Sec. 6.** The provisions of subsection 1 of NRS 218D.380 do not apply to any  
22 provision of this act which adds or revises a requirement to submit a report to the  
23 Legislature.

24 **Sec. 7.** NRS 231.075 is hereby repealed.

25 **Sec. 8.** This act becomes effective on July 1, 2017.

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## TEXT OF REPEALED SECTION

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### **231.075 Office of Economic Development: Assistance in development of inland ports.**

1. The Office of Economic Development shall:

(a) Promote, encourage and aid in the development of inland ports in this State.  
(b) Identify sources of financing to assist local governments in developing or  
expanding inland ports.

(c) Encourage and assist local governments in planning and preparing projects  
for inland ports.

(d) Promote close cooperation between local governments, other public  
agencies and private persons that have an interest in creating, operating or  
maintaining inland ports in the State.

2. As used in this section, "inland port" has the meaning ascribed to it in NRS  
277B.050.