

Amendment No. 262

Assembly Amendment to Assembly Bill No. 390 (BDR 23-102)

Proposed by: Assembly Committee on Government Affairs

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.

BJE/JWP



Date: 4/22/2017

A.B. No. 390—Makes various changes to state governmental administration.
(BDR 23-102)



ASSEMBLY BILL NO. 390—ASSEMBLYMAN
ELLIOT ANDERSON

MARCH 20, 2017

JOINT SPONSOR: SENATOR WOODHOUSE

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to state governmental administration.
(BDR 23-102)FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 governmental administration; ~~authorizing a state officer or state employee to communicate with the Legislature or a Legislator;~~ prohibiting a state agency from taking certain actions against a state officer or ~~state~~ employee ~~on account of such communication; revising provisions relating to~~ who makes certain disclosures of improper governmental action; ~~revising the salary to which a member of the Board of Regents of the University of Nevada is entitled;~~ to the Legislature; creating the Spending and Government Efficiency Commission for the Nevada System of Higher Education; prescribing the membership and duties of the Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 1 of this bill ~~authorizes a state officer or employee who acts in good faith to communicate or seek to communicate, personally or in his or her official capacity, with the Legislature or a Legislator on any matter. Section 1 further~~ prohibits a state agency which is the employer of ~~such~~ a state officer or employee from depriving the state officer or employee of his or her employment or taking any other reprisal or retaliatory action or other threatening or intimidating action against the state officer or employee ~~with respect to such communication or attempted communication;~~ for disclosing: (1) that false information has been disseminated by or on behalf of the employing agency; or (2) evidence of illegal activity of the agency. **Section 1** also prohibits a state agency from taking any of those actions against one state officer or employee in an attempt to affect the behavior of another state officer or employee with respect to that person's communications or attempted communications with the Legislature or a Legislator.

Existing law encourages state officers and employees to disclose improper governmental action and protects the rights of a state officer or employee who makes such a disclosure. (NRS 281.611-281.671) **Section 2** of this bill provides that making a false statement or misrepresentation of facts to the Legislature or to a Legislator is an improper governmental

action if the statement or misrepresentation is made by a state officer or employee or local governmental officer or employee in the performance of the officer's or employee's official duties.

~~Under existing law, each member of the Board of Regents of the University of Nevada is entitled to receive a salary of \$80 for each meeting of the Board that he or she attends. (NRS 296.070) Section 3 of this bill provides instead that each member of the Board of Regents is entitled to receive an annual salary of \$20,000.~~

Section 4 of this bill creates the Spending and Government Efficiency Commission for the Nevada System of Higher Education. The Commission is required to make periodic recommendations to the Governor identifying: (1) areas in which the public costs of the System may be reduced; (2) areas in which increased efficiencies in the System may be found; and (3) any means by which the System may be improved.

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

Section 1. Chapter 281 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. A state officer or state employee, acting in good faith, may communicate or seek to communicate, personally or in his or her official capacity, with the Legislature or a Legislator on any matter.~~

~~2. It is unlawful for a state agency which is the employer of~~ If a state officer or ~~state~~ employee ~~who~~ employed by a state agency communicates or seeks to communicate with the Legislature or a Legislator in accordance with subsection 1 to: disclose that false information has been disseminated by or on behalf of the state agency or disclose evidence of illegal activity of the state agency, it is unlawful for the state agency to:

(a) Deprive the state officer or ~~state~~ employee of employment with the state agency or ~~to~~ take any reprisal or retaliatory action against the state officer or ~~state~~ employee as a consequence of the actual or attempted communication;

(b) Threaten the state officer or ~~state~~ employee that the actual or attempted communication will result in the termination of employment ~~with the state agency~~ or in any reprisal or retaliatory action against the state officer or ~~state~~ employee; or

(c) Directly or indirectly intimidate, threaten, coerce, command or influence or attempt to intimidate, threaten, coerce, command or influence the state officer or ~~state~~ employee in an effort to interfere with or prevent such actual or attempted communication by the state officer or ~~state~~ employee.

~~3.~~ 2. It is unlawful for a state agency to:

(a) Deprive or threaten to deprive a state officer or ~~state~~ employee of employment with the state agency;

(b) Take or threaten to take any reprisal or retaliatory action against a state officer or ~~state~~ employee; or

(c) Directly or indirectly intimidate, threaten, coerce, command or influence or attempt to intimidate, threaten, coerce, command or influence a state officer or ~~state~~ employee,

in an attempt to affect the behavior of another state officer or ~~state~~ employee who may communicate or may seek to communicate with the Legislature or a Legislator ~~to~~ to disclose that false information has been disseminated by or on behalf of the state agency or disclose evidence of illegal activity of the state agency.

~~4.4~~ 3. Any provision in a contract of employment or other agreement between a state agency and a state officer or ~~state~~ employee that conflicts with, or purports to waive, the provisions of this section is against public policy and is void and unenforceable.

~~5.4~~ 4. For the purposes of this section:

(a) "Legislator" means any:

(1) Current or former member of the Senate or Assembly of the State of Nevada; or

(2) Other person who takes or performs any actions within the sphere of legitimate legislative activity that would be protected if taken or performed by any member of the Senate or Assembly, including, without limitation, any such actions taken or performed by any current or former officer or employee of the Legislature.

(b) "Legislature" means:

(1) The Legislature or either House;

(2) Any committee of either House;

(3) Any joint committee of both Houses; or

(4) Any other committee, subcommittee, commission, agency or entity created or authorized by the Legislature to perform legislative functions at the direction of the Legislature, including, without limitation, the Legislative Commission, the Legislative Counsel Bureau or any other agency or entity of the Legislative Department of State Government.

(c) "State agency" means an agency, bureau, board, commission, department, division, officer, employee or agent or any other unit of the Executive Department, including, without limitation, the Nevada System of Higher Education and the Board of Regents of the University of Nevada.

Sec. 2. NRS 281.611 is hereby amended to read as follows:

281.611 As used in NRS 281.611 to 281.671, inclusive, unless the context otherwise requires:

1. "Improper governmental action" means any action taken by a state officer or employee or local governmental officer or employee in the performance of the officer's or employee's official duties, whether or not the action is within the scope of employment of the officer or employee, which is:

(a) In violation of any state law or regulation;

(b) If the officer or employee is a local governmental officer or employee, in violation of an ordinance of the local government;

(c) An abuse of authority;

(d) Of substantial and specific danger to the public health or safety; ~~to~~

(e) A gross waste of public money ~~to~~; or

(f) A false statement or misrepresentation of facts to the Legislature or a Legislator.

2. "Legislator" means any:

(a) Current or former member of the Senate or Assembly of the State of Nevada; or

(b) Other person who takes or performs any actions within the sphere of legitimate legislative activity that would be protected if taken or performed by any member of the Senate or Assembly, including, without limitation, any such actions taken or performed by any current or former officer or employee of the Legislature.

3. "Legislature" means:

(a) The Legislature or either House;

(b) Any committee of either House;

(c) Any joint committee of both Houses; or

(d) Any other committee, subcommittee, commission, agency or entity created or authorized by the Legislature to perform legislative functions at the direction of the Legislature, including, without limitation, the Legislative Commission, the Legislative Counsel Bureau or any other agency or entity of the Legislative Department of State Government.

4. “Local government” means a county in this State, an incorporated city in this State and Carson City.

~~3-4~~ **5.** “Local governmental employee” means any person who performs public duties under the direction and control of a local governmental officer for compensation paid by or through a local government.

~~4-4~~ **6.** “Local governmental officer” means a person elected or appointed to a position with a local government that involves the exercise of a local governmental power, trust or duty, including:

(a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of local governmental policy;

(b) The expenditure of money of a local government; and

(c) The enforcement of laws and regulations of the State or a local government.

~~5-4~~ **7.** “Reprisal or retaliatory action” includes:

(a) The denial of adequate personnel to perform duties;

(b) Frequent replacement of members of the staff;

(c) Frequent and undesirable changes in the location of an office;

(d) The refusal to assign meaningful work;

(e) The issuance of letters of reprimand or evaluations of poor performance;

(f) A demotion;

(g) A reduction in pay;

(h) The denial of a promotion;

(i) A suspension;

(j) A dismissal;

(k) A transfer;

(l) Frequent changes in working hours or workdays; or

(m) If the employee is licensed or certified by an occupational licensing board, the filing with that board, by or on behalf of the employer, of a complaint concerning the employee,

if such action is taken, in whole or in part, because the state officer or employee or local governmental officer or employee disclosed information concerning improper governmental action.

~~6-4~~ **8.** “State” includes, without limitation, the Nevada System of Higher Education and the Board of Regents of the University of Nevada.

9. “State employee” means any person who performs public duties under the direction and control of a state officer for compensation paid by or through the State.

~~7-4~~ **10.** “State officer” means a person elected or appointed to a position with the State which involves the exercise of a state power, trust or duty, including:

(a) Actions taken in an official capacity which involve a substantial and material exercise of administrative discretion in the formulation of state policy;

(b) The expenditure of state money; and

(c) The enforcement of laws and regulations of the State.

Sec. 3. ~~INRS 396.070 is hereby amended to read as follows:~~

~~396.070 1. Each member of the Board of Regents is entitled to receive [a] an annual salary of [\$80 for each meeting of the Board that he or she attends.] \$20,000.~~

~~2. Each member of the Board of Regents is entitled to receive in attending meetings of the Board, or while on Board of Regents' business within the State:~~

~~(a) A per diem expense allowance not to exceed the greater of:~~

~~(1) The rate of \$60; or~~

~~(2) The maximum rate established by the Federal Government for the locality in which the travel is performed.~~

~~(b) The travel allowance provided for state officers and employees generally.~~

~~3. If an account is established for a member of the Board of Regents to pay for hosting expenditures of the member:~~

~~(a) The annual expenditures from the account may not exceed \$2,500.~~

~~(b) The account may be used only to pay for activities that are directly related to the duties of the member of the Board of Regents, including reasonable expenses for meals, beverages and small gifts. The account must not be used to pay for expenses associated with attending a sporting event or a political fundraising event.~~

~~(c) The member of the Board of Regents must submit a monthly report of expenditures from the account to the Chancellor of the System. The report must include, without limitation, the amount of money expended from the account, the specific purpose and activity for which the money was expended and, if applicable, the person for whom the money was expended.~~

~~(d) The Chancellor of the System shall compile the monthly reports into an annual report on or before January 30 of each year. The monthly reports and annual reports are public records and must be made available for public inspection.~~

~~4. As used in this section, "hosting expenditures" means reasonable expenses by or on behalf of a member of the Board of Regents who is conducting business activities necessary to provide a benefit to the System by establishing goodwill, promoting programs of the System or otherwise advancing the mission of the System.~~ (Deleted by amendment.)

Sec. 4. 1. There is hereby created the Spending and Government Efficiency Commission for the Nevada System of Higher Education. The Commission consists of 12 members appointed as follows:

(a) Six members appointed by the Governor;

(b) Two members appointed by the Governor from a list of six recommendations provided by the Senate Majority Leader;

(c) Two members appointed by the Governor from a list of six recommendations provided by the Speaker of the Assembly;

(d) One member appointed by the Governor from a list of three recommendations provided by the Senate Minority Leader; and

(e) One member appointed by the Governor from a list of three recommendations provided by the Assembly Minority Leader.

➤ To the extent practicable, in appointing members to the Commission, the Governor shall ensure that the membership reflects the ethnic, gender and geographic diversity of this State.

2. The Governor shall appoint the Chair of the Commission from among its members.

3. The members of the Commission must be persons with expertise and experience in the operation of a business. A member may not have a personal or professional conflict of interest that would prevent the member from fully and objectively discharging his or her duties. A member may not derive any financial benefit from the work of the Commission, other than the general benefit received by all residents of this State from increased efficiency in the Nevada System of Higher Education.

4. Members of the Commission serve at the pleasure of the Governor.

1 5. Members of the Commission serve without salary or compensation for their
2 travel or per diem expenses.

3 6. A majority of the members of the Commission constitutes a quorum for the
4 transaction of business, and a majority of those members present at any meeting is
5 sufficient for any official action taken by the Commission.

6 7. The Commission shall comply with the provisions of chapter 241 of NRS
7 and all meetings must be conducted in accordance with that chapter.

8 8. The Department of Education shall provide administrative support to the
9 Commission.

10 9. The Commission may appoint committees or subcommittees of its
11 members to study the Nevada System of Higher Education and any means by which
12 the Nevada System of Higher Education may be improved.

13 10. The Commission shall, not less frequently than every 90 days, meet and:

14 (a) Submit recommendations to the Governor identifying:

15 (1) Areas in which the public costs of the Nevada System of Higher
16 Education may be reduced;

17 (2) Areas in which increased efficiencies in the Nevada System of Higher
18 Education may be found; and

19 (3) Means by which the Nevada System of Higher Education may be
20 improved; or

21 (b) If the Commission does not have any recommendations, submit to the
22 Governor a status report regarding the activities of the Commission for the period
23 from the date on which the Commission last submitted to the Governor a status
24 report or recommendations to the date on which the status report is submitted.

25 11. The Commission shall, on or before February 1, 2019, prepare and submit
26 a final report to the Governor and the Director of the Legislative Counsel Bureau
27 for transmittal to the 80th Session of the Nevada Legislature concerning its findings
28 and recommendations.

29 **Sec. 5.** 1. This act becomes effective on July 1, 2017.

30 2. Section 4 of this act expires by limitation on June 30, 2019.