

ASSEMBLY BILL NO. 7—COMMITTEE  
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE DEPARTMENT OF TRANSPORTATION)

PREFILED NOVEMBER 15, 2018

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing contracts with independent contractors executed by the Department of Transportation. (BDR 27-364)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

~

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

AN ACT relating to state purchasing; authorizing the Department of Transportation to execute certain contracts for the services of an independent contractor without filing the contracts with the State Board of Examiners for approval; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, a contract entered into by a using agency for the services of an independent contractor must be approved by the State Board of Examiners before it becomes effective. Existing law exempts from this requirement contracts entered into by the Department of Transportation for any work of construction or reconstruction of highways. (NRS 333.700) This bill eliminates the requirement that a contract executed by the Department be for any work of construction or reconstruction of highways for the contract to be exempt from the requirement to obtain approval of the State Board of Examiners. Instead, this bill exempts all contracts for the services of a person as an independent contractor executed by the Department, except for certain contracts with current or former employees of the Department, from the requirement to obtain approval of the State Board of Examiners before becoming effective.



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

**Section 1.** NRS 333.700 is hereby amended to read as follows:

333.700 1. Except as otherwise provided in NRS 333.705, a using agency may contract for the services of a person as an independent contractor. Except as otherwise provided by specific statute, each such contract must be awarded pursuant to this chapter.

2. An independent contractor is a natural person, firm or corporation who agrees to perform services for a fixed price according to his, her or its own methods and without subjection to the supervision or control of the other contracting party, except as to the results of the work, and not as to the means by which the services are accomplished.

3. For the purposes of this section:

(a) Travel, subsistence and other personal expenses may be paid to an independent contractor, if provided for in the contract, in such amounts as provided for in the contract. Those expenses must not be paid pursuant to the provisions of NRS 281.160.

(b) There must be no:

(1) Withholding of income taxes by the State;

(2) Coverage for industrial insurance provided by the State;

(3) Participation in group insurance plans which may be available to employees of the State;

(4) Participation or contributions by either the independent contractor or the State to the Public Employees' Retirement System;

(5) Accumulation of vacation leave or sick leave; or

(6) Coverage for unemployment compensation provided by the State if the requirements of NRS 612.085 for independent contractors are met.

4. An independent contractor is not in the classified or unclassified service of the State and has none of the rights or privileges available to officers or employees of the State of Nevada.

5. If the contract is for services for which a license, certificate, registration, permit or other type of authorization is required by law, an independent contractor must hold the appropriate, current authorization that is required by law for the services.

6. Except as otherwise provided in this subsection, each contract for the services of an independent contractor must be in writing. The form of the contract must be first approved by the Attorney General, and except as otherwise provided in subsection 8, an executed copy of each contract must be filed with the Fiscal Analysis Division of the Legislative Counsel Bureau and the Clerk of the State Board of Examiners. The State Board of Examiners may



1 waive the requirements of this subsection in the case of contracts  
2 which are for amounts less than \$2,000.

3 7. Except as otherwise provided in subsection 8, and except for  
4 contracts entered into by the Nevada System of Higher Education,  
5 each proposed contract with an independent contractor must be  
6 submitted to the State Board of Examiners. The contracts do not  
7 become effective without the prior approval of the State Board of  
8 Examiners, except that the State Board of Examiners may authorize  
9 its Clerk or a designee to approve contracts which are:

10 (a) For amounts less than \$50,000; or

11 (b) Entered into by the Nevada Gaming Control Board for the  
12 purposes of investigating an applicant for or holder of a gaming  
13 license.

14 8. Copies of the following types of contracts need not be filed  
15 or approved as provided in subsections 6 and 7:

16 (a) Contracts executed by the Department of Transportation ~~for~~  
17 ~~any work of construction or reconstruction of highways.~~, *other*  
18 *than contracts subject to the provisions of NRS 333.705 or*  
19 *408.353.*

20 (b) Contracts executed by the State Public Works Division of  
21 the Department of Administration or any other state department or  
22 agency for any work of construction or major repairs of state  
23 buildings, if the contracting process was controlled by the rules of  
24 open competitive bidding.

25 (c) Contracts executed by the Housing Division of the  
26 Department of Business and Industry.

27 (d) Contracts executed with business entities for any work of  
28 maintenance or repair of office machines and equipment.

29 9. The State Board of Examiners shall review each contract  
30 submitted for approval pursuant to subsection 7 to consider:

31 (a) Whether sufficient authority exists to expend the money  
32 required by the contract; and

33 (b) Whether the service which is the subject of the contract  
34 could be provided by a state agency in a more cost-effective  
35 manner.

36 ➤ If the contract submitted for approval continues an existing  
37 contractual relationship, the State Board of Examiners shall ask each  
38 agency to ensure that the State is receiving the services that the  
39 contract purports to provide.

40 10. If the services of an independent contractor are contracted  
41 for to represent an agency of the State in any proceeding in any  
42 court, the contract must require that the independent contractor  
43 identify in all pleadings the specific state agency which he or she is  
44 representing.



- 1        11. Except as otherwise provided in this subsection, a contract  
2 for the services of an independent contractor may be performed in  
3 parts or phases. A contract for the services of an independent  
4 contract must not be split into separate contracts for the purpose of  
5 avoiding any requirements for competitive bidding.
- 6        12. The State Board of Examiners may adopt regulations to  
7 carry out the provisions of this section.
- 8        **Sec. 2.** This act becomes effective upon passage and approval.

