

Amendment No. 423

Assembly Amendment to Assembly Bill No. 371	(BDR 19-16)
Proposed by: Assembly Committee on Government Affairs	
Amends: Summary: Yes 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. 371—ASSEMBLYMAN DALY

MARCH 20, 2019

Referred to Committee on Government Affairs

SUMMARY—~~[Revises provisions governing]~~ Temporarily requires the reporting of certain information relating to requests for public records ~~[]~~ by certain governmental entities. (BDR ~~[H-16])~~ S-16)

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 public records; ~~[revising provisions governing the inspection, copying or receipt of a copy of public records; abrogating any common-law exemption or exception to providing such access to]~~ requiring the person responsible for responding to public records requests for certain governmental entities to report for a temporary period certain information relating to requests for public records; requiring the Director of the Legislative Counsel Bureau to compile and provide that information to the Legislature and, upon request, a member of the public; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, all public books and records of a governmental entity are required to be open at all times during office hours for inspection and copying or receipt of a copy unless the records are otherwise declared by law to be confidential. (NRS 239.010) ~~[Section 2 of this bill specifies that "by law" means only by specific statute or regulation.]~~

~~—The Nevada Supreme Court has established a balancing test for a governmental entity to apply to determine whether to disclose a book or record when the law is silent with respect to the confidentiality of the book or record. Under this balancing test, the governmental entity is required to determine whether the private or governmental interest served by withholding the book or record clearly outweighs the right of the public to inspect or copy the book or record. (Donrey v. Bradshaw, 106 Nev. 630 (1990); DR Partners v. Board of County Comm'rs, 116 Nev. 616 (2000); Reno Newspapers, Inc. v. Haley, 126 Nev. Adv. Op. 23, 234 P.3d 922 (2010); Reno Newspapers, Inc. v. Gibbons, 127 Nev. Adv. Op. 79, 266 P.3d 623 (2011)) The legislative declaration for the provisions in existing law governing public records requires that those provisions be construed liberally to foster democratic principles by providing the public with access to inspect and copy public books and records and that any exemption or exception or balancing of interests which limits or restricts such access be construed narrowly. (NRS 239.001) Section 1 of this bill provides that the only exemptions or exceptions to providing access to inspect, copy or receive of a copy of public books and records are those provided by statute or regulation. Section 1 also abrogates any common-law exemption or exception to providing such access, including, without limitation, any balancing of interests.]~~ This bill

requires the person responsible for responding to a request to inspect, copy or receive a copy of a public book or record for certain governmental entities in the counties of Clark, Douglas, Elko, Washoe and Carson City and the cities of Elko, Henderson, Las Vegas, Reno and Sparks to compile certain information relating to each request for a public record received by the governmental entity for a period of 120 days beginning on January 15, 2020. Additionally, this bill requires each such entity to submit the information to the Director of the Legislative Counsel Bureau in an electronic format prescribed by the Director. Finally, this bill requires the Director to compile the information received from each governmental entity and: (1) provide the report to a member of the public upon request; (2) post notice of the availability of the report on an Internet website maintained by the Legislative Counsel Bureau; and (3) transmit the report to the Legislative Commission and to the next regular session of the Legislature.

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

Section 1. ~~[NRS 239.001 is hereby amended to read as follows:~~

~~239.001 1. The Legislature hereby finds and declares that:~~
~~[1.] (a) The purpose of this chapter is to foster democratic principles by providing members of the public with access to inspect and copy public books and records to the extent permitted by law;~~
~~[2.] (b) The provisions of this chapter must be construed liberally to carry out this important purpose;~~
~~[3.] (c) Any exemption [.] or exception [or balancing of interests] provided by statute or regulation which limits or restricts access to public books and records by members of the public must be construed narrowly;~~
~~[4.] (d) The use of private entities in the provision of public services must not deprive members of the public access to inspect and copy books and records relating to the provision of those services; and~~
~~[5.] (e) If a public book or record is declared by law to be open to the public, such a declaration does not imply, and must not be construed to mean, that a public book or record is confidential if it is not declared by law to be open to the public and is not otherwise declared by law to be confidential.~~
~~2. In interpreting and applying the provisions of this chapter, the only exemptions or exceptions limiting or restricting access to inspect, copy or receive a copy of public books and records are those provided by statute or regulation. Any common law exemption or exception to providing such access, including without limitation, any balancing of interests, is hereby abrogated.~~
~~3. As used in this section, "regulation" means a regulation adopted by a governmental entity pursuant to express statutory authority allowing the governmental entity to create an exemption or exception to this chapter or otherwise provide confidentiality for a record.] (Deleted by amendment.)~~

Sec. 2. ~~[NRS 239.010 is hereby amended to read as follows:~~

~~239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.440, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5412, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044,~~

~~159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156,
176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165,
179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.2662, 205.4651, 209.392,
209.3925, 209.419, 209.521, 211A.140, 213.010, 213.040, 213.095, 213.131,
217.105, 217.110, 217.464, 217.475, 218A.350, 218E.625, 218F.150, 218G.130,
218G.240, 218G.350, 228.270, 228.450, 228.495, 228.570, 231.069, 231.1473,
233.190, 237.300, 239.0105, 239.0113, 239B.030, 239B.040, 239B.050, 239C.140,
239C.210, 239C.230, 239C.250, 239C.270, 240.007, 241.030, 241.030, 241.039,
242.105, 244.264, 244.335, 247.540, 247.550, 247.560, 250.087, 250.130, 250.140,
250.150, 268.095, 268.490, 268.910, 271A.105, 281.195, 281.805, 281A.350,
281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068, 286.110,
287.0438, 289.025, 289.080, 289.387, 289.830, 293.4855, 293.5002, 293.503,
293.504, 293.558, 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110,
332.061, 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725,
338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049, 353A.085, 353A.100,
353C.240, 360.240, 360.247, 360.255, 360.755, 361.044, 361.610, 365.138,
366.160, 368A.180, 370.257, 370.327, 372A.080, 378.290, 378.300, 379.008,
379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455, 388.259, 388.501,
388.503, 388.513, 388.750, 388A.247, 388A.249, 391.035, 391.120, 391.925,
392.029, 392.147, 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,
392.850, 394.167, 394.1698, 394.447, 394.460, 394.465, 396.2295, 396.405,
396.525, 396.535, 396.9685, 398A.115, 408.3885, 408.3886, 408.3888, 408.5484,
412.153, 416.070, 422.2749, 422.305, 422A.342, 422A.350, 425.400, 427A.1236,
427A.872, 432.028, 432.205, 432B.175, 432B.280, 432B.290, 432B.407,
432B.430, 432B.560, 432B.5902, 433.534, 433A.080, 437.145, 439.840, 439B.420,
440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395, 442.735, 445A.665,
445B.570, 449.209, 449.245, 449A.112, 450.140, 453.164, 453.720, 453A.610,
453A.700, 458.055, 458.280, 459.050, 459.3866, 459.555, 459.7056, 459.846,
463.120, 463.15993, 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.365,
480.940, 481.063, 481.091, 481.093, 482.170, 482.5536, 483.340, 483.363,
483.575, 483.659, 483.800, 484E.070, 485.316, 501.344, 503.452, 522.040,
534A.031, 561.285, 571.160, 584.655, 587.877, 598.0964, 598.098, 598A.110,
599B.090, 603.070, 603A.210, 604A.710, 612.265, 616B.012, 616B.015,
616B.315, 616B.350, 618.341, 618.425, 622.310, 623.131, 623A.137, 624.110,
624.265, 624.327, 625.425, 625A.185, 628.418, 628B.230, 628B.760, 629.047,
629.069, 630.133, 630.30665, 630.336, 630A.555, 631.368, 632.121, 632.125,
632.405, 633.283, 633.301, 633.524, 634.055, 634.214, 634A.185, 635.158,
636.107, 637.085, 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
640A.220, 640B.730, 640C.400, 640C.600, 640C.620, 640C.745, 640C.760,
640D.190, 640E.340, 641.090, 641.325, 641A.191, 641A.289, 641B.170,
641B.460, 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180, 645.625,
645A.050, 645A.082, 645B.060, 645B.092, 645C.220, 645C.225, 645D.130,
645D.135, 645E.300, 645E.375, 645G.510, 645H.320, 645H.330, 647.0945,
647.0947, 648.033, 648.197, 649.065, 649.067, 652.228, 654.110, 656.105,
661.115, 665.130, 665.131, 669.275, 669.285, 669A.310, 671.170, 673.450,
673.480, 675.380, 676A.340, 676A.370, 677.243, 679B.122, 679B.152, 679B.159,
679B.190, 679B.285, 679B.690, 680A.270, 681A.140, 681B.260, 681B.410,
681B.540, 683A.0873, 685A.077, 686A.280, 686B.170, 686C.306, 687A.110,
687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696, 692A.117,
692C.190, 692C.3507, 692C.3536, 692C.3538, 692C.354, 692C.420, 693A.180,
693A.615, 696B.550, 696C.120, 703.196, 704B.320, 704B.325, 706.1725,
706A.230, 710.159, 711.600, sections 35, 38 and 41 of chapter 478, Statutes of
Nevada 2011 and section 2 of chapter 391, Statutes of Nevada 2013 and unless~~

1 otherwise declared by [law] ~~statute or regulation~~ to be confidential, all public
2 books and public records of a governmental entity must be open at all times during
3 office hours to inspection by any person, and may be fully copied or an abstract or
4 memorandum may be prepared from those public books and public records. Any
5 such copies, abstracts or memoranda may be used to supply the general public with
6 copies, abstracts or memoranda of the records or may be used in any other way to
7 the advantage of the governmental entity or of the general public. This section does
8 not supersede or in any manner affect the federal laws governing copyrights or
9 enlarge, diminish or affect in any other manner the rights of a person in any written
10 book or record which is copyrighted pursuant to federal law.

11 ~~2. A governmental entity may not reject a book or record which is~~
12 ~~copyrighted solely because it is copyrighted.~~

13 ~~3. A governmental entity that has legal custody or control of a public book or~~
14 ~~record shall not deny a request made pursuant to subsection 1 to inspect or copy or~~
15 ~~receive a copy of a public book or record on the basis that the requested public~~
16 ~~book or record contains information that is confidential if the governmental entity~~
17 ~~can redact, delete, conceal or separate the confidential information from the~~
18 ~~information included in the public book or record that is not otherwise confidential.~~

19 ~~4. A person may request a copy of a public record in any medium in which~~
20 ~~the public record is readily available. An officer, employee or agent of a~~
21 ~~governmental entity who has legal custody or control of a public record:~~

22 ~~(a) Shall not refuse to provide a copy of that public record in a readily~~
23 ~~available medium because the officer, employee or agent has already prepared or~~
24 ~~would prefer to provide the copy in a different medium.~~

25 ~~(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare~~
26 ~~the copy of the public record and shall not require the person who has requested the~~
27 ~~copy to prepare the copy himself or herself.~~

28 ~~5. As used in this section, "regulation" means a regulation adopted by a~~
29 ~~governmental entity pursuant to express statutory authority allowing the~~
30 ~~governmental entity to create an exemption or exception to this chapter or~~
31 ~~otherwise provide confidentiality for a record.] (Deleted by amendment.)~~

32 Sec. 2.5. 1. The person responsible for responding to public records
33 requests for the following governmental entities shall perform the duties
34 prescribed in subsection 2:

35 (a) In the counties of Clark, Douglas, Elko, Washoe and Carson City:

36 (1) The office of the county assessor;

37 (2) The department responsible for public works;

38 (3) The office of the district attorney;

39 (4) The office of a county coroner or medical examiner; and

40 (5) The office of registrar of voters or county clerk, as applicable, with
41 respect to elections;

42 (b) In the cities of Elko, Henderson, Las Vegas, Reno and Sparks:

43 (1) The department responsible for public works;

44 (2) The office of the city attorney; and

45 (3) The office responsible for planning;

46 (c) Clark County School District, Douglas County School District, Elko
47 County School District, Lyon County School District and Washoe County
48 School District; and

49 (d) The Department of Corrections.

50 2. For a period of 120 days beginning on January 15, 2020, the person
51 responsible for responding to public records requests for the governmental
52 entities described in subsection 1 shall compile the information listed in
53 subsection 3 for the governmental entity for which he or she is responsible and

1 submit the information to the Director of the Legislative Counsel Bureau in an
2 electronic format prescribed by the Director.

3 3. The information compiled pursuant to subsection 2 must include,
4 without limitation, for each request for a public record received by the
5 governmental entity:

6 (a) The type of requester, if known, including, without limitation, whether
7 the person who made the request was a private citizen or a representative of a
8 media organization, nonprofit organization, corporation based in this State,
9 corporation based outside this State, political party or labor union;

10 (b) Whether the request was:

11 (1) Provided in complete form without any redactions;

12 (2) Provided with redactions; or

13 (3) Denied in whole or in part;

14 (c) If the request was denied in whole or in part, the reason provided for
15 the denial, including, without limitation, if the governmental entity determines
16 that:

17 (1) The record or portion thereof is deemed confidential by statute or
18 regulation, a citation to that statute or regulation;

19 (2) The requested record or portion thereof is privileged, a statement
20 of that determination and the type of privilege cited for the denial;

21 (3) The governmental entity does not have legal custody or control of
22 the requested record or portion thereof, or the requested record does not exist,
23 a statement of that determination; or

24 (4) Common law requires the denial, a statement of the common-law
25 reason cited for the denial, including, without limitation, that a balancing of
26 interests necessitated the denial;

27 (d) The number of days that elapsed between the date on which the
28 governmental entity received the request and the date on which the
29 governmental entity provided the request or denied the request in whole or in
30 part;

31 (e) The fee charged for providing the requested record; and

32 (f) The medium in which the requested record was provided.

33 4. A request by a pupil or by his or her parent or legal guardian for the
34 record of a pupil is not a request for a public record for purposes of subsection
35 2.

36 5. On or before July 1, 2020, the Director of the Legislative Counsel
37 Bureau shall compile the information received pursuant to subsection 2 into a
38 report and:

39 (a) Provide the report to a member of the public upon request;

40 (b) Post notice of the availability of the report on an Internet website
41 maintained by the Legislative Counsel Bureau; and

42 (c) Transmit the report to the Legislative Commission and to the next
43 regular session of the Legislature.

44 Sec. 3. This act becomes effective on July 1, 2019.