

SENATE BILL NO. 237—SENATORS D. HARRIS AND SCHEIBLE

MARCH 15, 2021

Referred to Committee on Judiciary

SUMMARY—Revises provisions relating to businesses.
(BDR 7-548)

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 businesses; revising provisions relating to policies, programs and procedures intended to encourage and promote certain business enterprises to require such programs to include LGBTQ-owned businesses; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides that a minority-owned business, woman-owned business or veteran-owned business is entitled, at the time of application for issuance or renewal of a state business license, to receive certain information through the state business portal regarding public and private programs to obtain financing for small businesses under state and federal laws and the process for obtaining certification as a disadvantaged business enterprise under federal law. (NRS 75A.350) **Section 1** of this bill adds LGBTQ-owned businesses to the list of those entitled to receive such information.

Existing law requires the Office of Economic Development to develop and carry into effect a program under which a business certified as a small business enterprise, minority-owned business enterprise, woman-owned business enterprise or disadvantaged business enterprise may obtain a loan to finance the expansion of its business in this State. (NRS 231.1409) **Section 2** of this bill requires the program to include businesses certified as LGBTQ-owned business enterprises.

Existing law sets forth certain legislative declarations concerning equal access to opportunities for business formation and business growth in this State in relation to the business of the Department of Transportation. (NRS 408.38722) **Section 3** of this bill specifically declares that the elimination of discrimination against LGBTQ-owned businesses is important to the future welfare of this State. Existing law also requires the Department of Transportation to establish goals for the participation of disadvantaged business enterprises and local emerging small businesses in certain contracts relating to transportation projects. (NRS 408.38724) **Section 4** of this bill revises these requirements to require the Department to establish goals for the awarding of contracts to: (1) disadvantaged business enterprises for projects that



receive federal funding in accordance with applicable federal regulations; and (2) small business enterprises, local emerging small businesses and LGBTQ-owned businesses for certain transportation projects that do not receive federal funding. **Section 4** requires that the goals established for the awarding of contracts for projects that do not receive federal funding be: (1) consistent with the goals required for similar projects that receive federal funding; and (2) based upon certain information relating to the market for which the goals are set and the most recent disparity study conducted by the Department.

Existing law creates the Cannabis Advisory Commission for the purposes of studying issues and making recommendations related to the regulation of cannabis in this State. (NRS 678A.300, 678A.310) **Section 5** of this bill requires any subcommittee on market participation appointed by the Chair of the Commission to review and make recommendations on matters relating to LGBTQ-owned businesses in the cannabis industry in this State.

Existing law creates the Regional Business Development Advisory Council for Clark County and requires the Council to propose and implement policies, programs and procedures to encourage and promote the use of local businesses owned and operated by disadvantaged persons. (Sections 15 and 20 of chapter 7, Statutes of Nevada 2003, 20th Special Session, at pages 268-69) **Section 6** of this bill includes a person who identifies as lesbian, gay, bisexual, transgender, queer or intersex or of any other nonheterosexual or noncisgender orientation or gender identity or expression in the definition of "disadvantaged person."

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

Section 1. NRS 75A.350 is hereby amended to read as follows:

75A.350 1. The Secretary of State shall ensure that the state business portal enables a person who applies through the state business portal for the issuance or renewal of a state business license pursuant to chapter 76 of NRS to indicate whether the applicant is a minority-owned business, a woman-owned business, ~~or~~ a veteran-owned business ~~or~~ *or an LGBTQ-owned business.*

2. If a person who applies through the state business portal for the issuance or renewal of a state business license pursuant to chapter 76 of NRS indicates that the business is a minority-owned business, a woman-owned business, ~~or~~ a veteran-owned business ~~or~~ *or an LGBTQ-owned business,* the Secretary of State shall provide the following information to the person in electronic form through the state business portal:

(a) Information concerning programs to provide financing for small businesses. The information must include, without limitation, information concerning:

(1) Grants or loans of money from the Catalyst Account created by NRS 231.1573;

(2) The issuance of revenue bonds for industrial development pursuant to NRS 349.400 to 349.670, inclusive;



(3) The Nevada Collateral Support Program pursuant to 12 U.S.C. §§ 5701 et seq.;

(4) The Nevada Microenterprise Initiative Program pursuant to 12 U.S.C. §§ 5701 et seq.;

(5) The Nevada New Markets Jobs Act pursuant to chapter 231A of NRS;

(6) The Nevada Silver State Opportunities Fund pursuant to NRS 355.275;

(7) Loans from the Small Business Administration pursuant to 15 U.S.C. §§ 631 et seq.; and

(8) Any other program to provide financing for small businesses designated by the Secretary of State.

(b) Information concerning the process by which the business may become certified as a disadvantaged business enterprise for the purposes of 49 C.F.R. § 26.5 or a program to provide financing for disadvantaged business enterprises.

3. The Secretary of State may adopt regulations as he or she deems necessary to carry out the provisions of this section.

4. As used in this section:

(a) *“LGBTQ” means lesbian, gay, bisexual, transgender, queer or intersex or of any other nonheterosexual or noncisgender orientation or gender identity or expression.*

(b) *“LGBTQ-owned business” means a business that:*

(1) Is owned by a natural person who identifies as LGBTQ; or

(2) Has at least 51 percent of its ownership interest held by one or more natural persons who identify as LGBTQ.

(c) “Veteran” has the meaning ascribed to it in NRS 417.005.

~~(b)~~ (d) “Veteran-owned business” means a business that:

(1) Is owned by a natural person who is a veteran; or

(2) Has at least 51 percent of its ownership interest held by one or more veterans.

Sec. 2. NRS 231.1409 is hereby amended to read as follows:

231.1409 1. The Office shall develop and carry into effect a program under which a business located in this State that is certified by an agency or entity approved by the Office as a small business enterprise, minority-owned business enterprise, woman-owned business enterprise, *LGBTQ-owned business enterprise* or disadvantaged business enterprise may obtain a loan of money distributed from the Account to finance the expansion of its business.

2. In carrying out the program, the Office may:

(a) Enter into an agreement with a person who operates a program in this State to provide loans to small business enterprises, minority-owned business enterprises, women-owned business



enterprises , *LGBTQ-owned business enterprises* and disadvantaged business enterprises.

(b) Make grants of money from the Account to that person, which must be used by that person to make loans or participate with private lending institutions in the making of loans to finance the expansion of a business located in this State that is certified by an agency or entity approved by the Office as a small business enterprise, minority-owned business enterprise, woman-owned business enterprise , *LGBTQ-owned business enterprise* or disadvantaged business enterprise.

3. The Office shall establish the criteria which must be used by the program to determine whether to make a loan to a business described in subsection 1 and the criteria which such a business must meet to qualify for a loan under the program. In establishing such criteria, the Office shall consider, without limitation, whether the making of the loan will assist this State to:

(a) Diversify and expand the number and types of businesses and industries in this State;

(b) Encourage economic growth and maintain a stable economy;

(c) Expand employment opportunities or relieve unemployment or underemployment in any segments of the population of this State that traditionally have experienced the highest rates of unemployment and underemployment; and

(d) Encourage the formation and expansion of businesses located in this State that are certified by an agency or entity approved by the Office as a small business enterprise, minority-owned business enterprise, woman-owned business enterprise , *LGBTQ-owned business enterprise* or disadvantaged business enterprise.

4. The Office shall establish procedures for applying for a loan from the program. The procedures must require an applicant to submit an application for a loan that includes, without limitation:

(a) A statement of the proposed use of the loan;

(b) A business plan; and

(c) Such other information as the Office deems necessary to determine whether the making of the loan to the applicant satisfies the criteria established by the Office pursuant to subsection 3 and whether the applicant is qualified for the loan.

5. A business located in this State that is certified by an agency or entity approved by the Office as a small business enterprise, minority-owned business enterprise, woman-owned business enterprise , *LGBTQ-owned business enterprise* or disadvantaged business enterprise may submit an application for a loan to the Office or the person with whom the Office has entered into an agreement to carry out the program.



6. The Office, or the person with whom the Office has entered into an agreement to carry out the program, may approve an application for a loan submitted pursuant to subsection 5 if the Office, or the person carrying out the program, finds that:

(a) The applicant operates a for-profit business in this State and has the capability to continue in operation in this State for a period prescribed by the Office;

(b) The applicant maintains its principal place of business in this State;

(c) The applicant is certified by an agency or entity approved by the Office as a small business enterprise, minority-owned business enterprise, woman-owned business enterprise, *LGBTQ-owned business enterprise* or disadvantaged business enterprise and is in compliance with all applicable licensing and registration requirements in this State;

(d) The loan will enable the business to acquire the capital equipment necessary to expand in this State and hire additional employees in this State;

(e) There is adequate assurance that the loan will be repaid; and

(f) The making of the loan satisfies the criteria established by the Office pursuant to subsection 3.


7. If the Office, or a person with whom the Office has entered into an agreement to carry out the program, approves an application for a loan pursuant to this section:

(a) The Office, or the person carrying out the program, and the applicant must execute a loan agreement that contains such terms as the Office or person deems necessary; and

(b) The Office, or the person carrying out the program, must fund the loan from the money in the Account.

8. The rate of interest on loans made pursuant to the program must be as low as practicable, but sufficient to pay the cost of the program.

9. After deducting the costs directly related to administering the program, payments of principal and interest on loans made to a small business enterprise, minority-owned business enterprise, woman-owned business enterprise, *LGBTQ-owned business enterprise* or disadvantaged business enterprise from money distributed from the Account must be deposited in the State General Fund for credit to the Account.

10. As used in this section :

(a) “Account” means the Small Business Enterprise Loan Account created by NRS 231.14095.

(b) *“LGBTQ” means lesbian, gay, bisexual, transgender, queer or intersex or of any other nonheterosexual or noncisgender orientation or gender identity or expression.*



(c) “*LGBTQ-owned business enterprise*” means a business that:

(1) *Is owned by a natural person who identifies as LGBTQ;*
or

(2) *Has at least 51 percent of its ownership interest held by one or more natural persons who identify as LGBTQ.*

Sec. 3. NRS 408.38722 is hereby amended to read as follows:

408.38722 The Legislature hereby finds and declares that:

1. The State wishes to provide all of its citizens with equal access to opportunities for business formation and business growth.

2. The elimination of discrimination against disadvantaged business enterprises *and LGBTQ-owned businesses* is of paramount importance to the future welfare of this State.

3. The Legislature has received and carefully reviewed the “Availability and Disparity Study” commissioned by the Department and published on June 15, 2007, that this study provides a strong basis of evidence demonstrating persistent discrimination against businesses owned by women and minorities and that this study demonstrates that:

(a) Disparities exist in the utilization of businesses owned by women and minorities in the same geographic markets and industry categories in which the Department does business;

(b) The State would become a passive participant in private-sector racial, ethnic and gender discrimination if it ceased or curtailed its remedial efforts against such discrimination;

(c) An overall pattern of disparities exists in the utilization of all racial and ethnic groups and both minority and nonminority women combined in all Department contracts;

(d) Evidence exists that discrimination in the private sector has depressed the formation and growth of firms among minority and nonminority women entrepreneurs; and

(e) Evidence exists of discrimination against minority and nonminority women business owners in the Nevada marketplace.

4. The Department should continue to use race-neutral and gender-neutral efforts to eliminate discrimination to the maximum extent feasible and should use only race-conscious and gender-conscious measures where necessary to eliminate discrimination that was not alleviated by race-neutral and gender-neutral efforts, and only as allowed under federal law.

5. NRS 408.3872 to 408.38728, inclusive, continues and enhances efforts to ensure that the Department limits the burden on businesses which are not disadvantaged business enterprises *or LGBTQ-owned businesses* by ensuring flexibility in the operations of the Department.



6. Efforts by this State to support the development of businesses owned by women , ~~and~~ minorities *and persons who identify as LGBTQ* that are competitively viable will assist in reducing discrimination and creating jobs for all citizens of this State.

7. *As used in this section:*

(a) *“LGBTQ” means lesbian, gay, bisexual, transgender, queer or intersex or of any other nonheterosexual or noncisgender orientation or gender identity or expression.*

(b) *“LGBTQ-owned business” means a business that:*

(1) *Is owned by a natural person who identifies as LGBTQ;*

or

(2) *Has at least 51 percent of its ownership interest held by one or more natural persons who identify as LGBTQ.*

Sec. 4. NRS 408.38724 is hereby amended to read as follows:

408.38724 1. The Department shall establish goals for the awarding of contracts to ~~disadvantaged~~ :

(a) ~~Disadvantaged~~ business enterprises ~~and~~ *for projects that receive federal funding in accordance with 49 C.F.R. Part 26.*

(b) *Small business enterprises*, local emerging small businesses *and LGBTQ-owned businesses* for:

~~(a)~~ (1) Highway construction, reconstruction, improvements and maintenance on projects estimated to cost \$250,000 or more that do not receive federal funding; and

~~(b)~~ (2) Architectural, engineering and planning services ~~for projects that do not receive federal funding.~~

2. The Department shall ensure that the goals established pursuant to *paragraph (b) of* subsection 1 are:

(a) Consistent with the goals required for similar projects that receive federal funding; and

(b) Based upon ~~information~~ :

(1) *Information* about the relevant market for which the goals are set ~~for~~ ; and

(2) *The most recent disparity study conducted by the Department.*

3. *The Department shall include LGBTQ-owned businesses in each disparity study.*

4. The Department shall adopt regulations to define the term “local emerging small business” for the purposes of NRS 408.3872 to 408.38728, inclusive. When adopting regulations pursuant to this subsection, the Department shall determine whether other state agencies have adopted related definitions for similar projects and, if so, coordinate with those state agencies in defining the term.

5. *As used in this section:*



(a) “Disparity study” means a study conducted by the Department to assist the Department with implementing the federal Disadvantaged Business Enterprise Program.

(b) “LGBTQ” means lesbian, gay, bisexual, transgender, queer or intersex or of any other nonheterosexual or noncisgender orientation or gender identity or expression.

(c) “LGBTQ-owned business” means a business that:

(1) Is owned by a natural person who identifies as LGBTQ;
or

(2) Has at least 51 percent of its ownership interest held by one or more natural persons who identify as LGBTQ.

(d) “Small business enterprise” means a business meeting the Small Business Administration size eligibility standards established in 13 C.F.R. §§ 121.101 to 121.201, inclusive.

Sec. 4.5. NRS 408.38726 is hereby amended to read as follows:

408.38726 1. The Department shall regularly review information about the goals established pursuant to NRS 408.38724 and the markets for which these goals are set.

2. The Department shall prepare a biennial report for the Governor and the Legislature and submit the report on or before December 31 of each even-numbered year. The biennial report must include, without limitation:

(a) All goals established by the Department pursuant to NRS 408.38724;

(b) Whether each goal established by the Department has been achieved; and

(c) For each goal established by the Department that has not been achieved, information on all efforts undertaken by the Department to achieve the goal.

3. If the Department determines that the information gathered pursuant to subsection 1 indicates that disparities no longer exist in the awarding of contracts to disadvantaged business enterprises *and LGBTQ-owned businesses* and a discontinuation of the goals required to be established by NRS 408.38724 would be in the best interest of this State, the Director shall transmit to the Governor and the Director of the Legislative Counsel Bureau for transmission to the Legislature a statement of that determination accompanied by a report detailing the findings of the Department which justify that determination.

4. As used in this section:

(a) “LGBTQ” means lesbian, gay, bisexual, transgender, queer or intersex or of any other nonheterosexual or noncisgender orientation or gender identity or expression.

(b) “LGBTQ-owned business” means a business that:



- 1 (1) *Is owned by a natural person who identifies as LGBTQ;*
2 *or*
3 (2) *Has at least 51 percent of its ownership interest held by*
4 *one or more natural persons who identify as LGBTQ.*

5 **Sec. 5.** NRS 678A.310 is hereby amended to read as follows:
6 678A.310 1. The Commission shall:

7 (a) Consider all matters submitted to it by the Board, the
8 Governor or the Legislature;

9 (b) On its own initiative, recommend to the Board any
10 guidelines, rules or regulations or any changes to existing
11 guidelines, rules or regulations that the Commission considers
12 important or necessary for the review and consideration of the
13 Board;

14 (c) Advise the Board on the preparation of any regulations
15 adopted pursuant to this title;

16 (d) Study the distribution of licenses, including, without
17 limitation, the number of licenses authorized to be issued to
18 cannabis establishments within the territory of each local
19 government in this State, and recommend to the Board any statutory
20 changes that the Commission determines to be appropriate; and

21 (e) Study the feasibility of the use of emerging technologies,
22 including, without limitation, blockchain and systems that use a
23 single source of truth, as a means of collecting data or efficiently
24 and effectively handling transactions electronically to reduce or
25 eliminate the handling of cash.

26 2. The Chair of the Commission may appoint:

27 (a) A subcommittee on public health to review and make
28 recommendations on matters related to the labeling, packaging,
29 marketing and advertising of cannabis and cannabis products, the
30 potency of cannabis and cannabis products and any other issue
31 related to the effect of cannabis and cannabis products on public
32 health. Such recommendations may include, without limitation,
33 maximum limits for individual servings of cannabis and cannabis
34 products.

35 (b) A subcommittee on public safety and community mitigation
36 to review and make recommendations on matters relating to the
37 effects of cannabis on law enforcement, property, businesses and
38 consumers.

39 (c) A subcommittee on the cannabis industry to review and
40 make recommendations on matters relating to the stability of the
41 market for and the cultivation, processing, manufacturing,
42 transportation, distribution and seed-to-sale tracking of cannabis and
43 cannabis products.

44 (d) A subcommittee on market participation to review and make
45 recommendations on matters relating to the participation of



women-owned businesses, minority-owned businesses, veteran-owned businesses, *LGBTQ-owned businesses* and local agriculture in the cannabis industry in this State.

(e) A subcommittee on the prevention of unlicensed cannabis sales in this State to:

(1) Review the legal authority of state agencies and local governments to curtail the unlicensed sale of cannabis and cannabis products, including, without limitation, by use of Internet websites, sales centers or other buildings to evade the laws of this State relating to the licensing of cannabis establishments;

(2) Review the resources available to state agencies and local governments to prevent the unlicensed sale of cannabis and cannabis products;

(3) Examine gaps in the enforcement of the laws of this State, including, without limitation, the importation of cannabis and cannabis products from other states;

(4) Identify the extent of the unlicensed sale of cannabis and cannabis products in this State, including, without limitation, the number of operations engaging in the unlicensed sale of cannabis and cannabis products and the most common methods used to engage in such sales;

(5) Examine any other issues relating to the unlicensed sale of cannabis or cannabis products that the Commission determines to be appropriate; and

(6) Make recommendations for efficiently and effectively closing any gaps in legal authority or enforcement identified by the subcommittee.

(f) A subcommittee on local governments to review and make recommendations on matters relating to the role of local governments in the regulation of the cannabis industry. In addition to any member of the Commission appointed to a subcommittee created pursuant to this paragraph, the Chair of the Commission shall appoint to the subcommittee:

(1) One member recommended by the governing body of the Nevada League of Cities; and

(2) One member recommended by the Nevada Association of Counties.

(g) A subcommittee on testing and laboratories to review and make recommendations on matters relating to the testing of cannabis and cannabis products and the efficient and effective operations of independent testing laboratories. In addition to any member of the Commission appointed to a subcommittee created pursuant to this paragraph, the Chair of the Commission shall appoint to the subcommittee one member who serves on an advisory committee



for laboratories established by the Board to provide recommendations regarding the testing of cannabis.

(h) Any other subcommittee the Chair deems necessary to expedite the work of the Board.

3. If the Chair appoints a subcommittee pursuant to subsection 2, the subcommittee must:

(a) Contain not more than five members, who serve at the pleasure of the Chair; and

(b) Be chaired by the person selected as chair of the subcommittee by the Chair.

4. As used in this section:

(a) "LGBTQ" means lesbian, gay, bisexual, transgender, queer or intersex or of any other nonheterosexual or noncisgender orientation or gender identity or expression.

(b) "LGBTQ-owned business" means a business that:

(1) Is owned by a natural person who identifies as LGBTQ; or

(2) Has at least 51 percent of its ownership interest held by one or more natural persons who identify as LGBTQ.

Sec. 6. Section 13 of the Regional Business Development Advisory Council for Clark County Act, being chapter 7, Statutes of Nevada 2003, 20th Special Session, at page 267, is hereby amended to read as follows:

Sec. 13. "Disadvantaged person" means a person who

~~is~~:

1. Is a member of a racial or ethnic minority, female or physically disabled ~~is~~; or

2. Identifies as lesbian, gay, bisexual, transgender, queer or intersex or of any other nonheterosexual or noncisgender orientation or gender identity or expression.

Sec. 6.5. The provisions of subsection 1 of NRS 218D.380 do not apply to any provision of this act which adds or revises a requirement to submit a report to the Legislature.

Sec. 7. 1. This section becomes effective upon passage and approval.

2. Sections 1 to 6.5, inclusive, of this act become effective on January 1, 2022.

3. Sections 3, 4 and 4.5 of this act expire by limitation on the earlier of:

(a) September 30, 2023; or



1 (b) The date that is 90 days after the date on which the Director
2 of the Department of Transportation transmits to the Governor and
3 the Director of the Legislative Counsel Bureau the statement and
4 report required by subsection 3 of NRS 408.38726.

