

ASSEMBLY BILL NO. 153—ASSEMBLYWOMAN BILBRAY-AXELROD

FEBRUARY 18, 2021

JOINT SPONSOR: SENATOR BROOKS

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing performance contracts.
(BDR 27-708)

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 public financial administration; clarifying that a local government may use any savings realized under a performance contract to make payments required under the performance contract; making a legislative declaration to encourage using agencies to utilize performance contracts to implement operating cost-savings measures; authorizing such agencies to request the reinvestment of savings realized under such performance contracts during the budgetary process; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes and sets forth the requirements for local governments to
2 enter into performance contracts for the purchase and installation of operating cost-
3 savings measures to reduce costs related to such matters as energy, water and the
4 disposal of waste, and related labor costs. (NRS 332.300-332.440) Existing law
5 authorizes a local government to reinvest any savings realized under a performance
6 contract into operating cost-savings measures. (NRS 332.410) **Section 1** of this bill
7 clarifies that a local government may also use such savings to make any payments
8 required under the performance contract, including finance charges.

9 Existing law authorizes certain agencies in the Executive Department of the
10 State Government, known as “using agencies,” to enter into performance contracts
11 for the purchase and installation of operating cost-savings measures to reduce costs
12 related to such matters as energy, water and the disposal of waste, and related labor
13 costs. (NRS 333A.010-333A.150) **Section 2** of this bill makes a legislative
14 declaration and states that it is the policy of the State to encourage, to the extent



15 practicable, a using agency to: (1) utilize the provisions related to a performance
16 contract to implement operating cost-savings measures to reduce costs related to
17 energy, water or the disposal of waste, or related labor costs; and (2) continually
18 review whether the using agency could utilize a performance contract to implement
19 operating cost-savings measures to reduce costs related to energy, water or the
20 disposal of waste, or related labor costs. **Section 3** of this bill authorizes such an
21 agency to request the reinvestment of savings realized under such a performance
22 contract as part of the process for the preparation of the proposed budget of the
23 Executive Department.

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

1 **Section 1.** NRS 332.410 is hereby amended to read as follows:

2 332.410 A local government may ~~reinvest~~ *use* any savings
3 realized ~~under~~ *throughout the term of* a performance contract
4 ~~whenever practical~~ *to:*

5 *1. Make any payments required under the performance*
6 *contract, including, without limitation, the payment of finance*
7 *charges; and*

8 *2. Reinvest* into other operating cost-savings measures
9 provided the local government:

10 ~~1-~~ *(a)* Is satisfying all its other obligations under the
11 performance contract; and

12 ~~2-~~ *(b)* Complies with the requirements of NRS 332.300 to
13 332.440, inclusive, when reinvesting the savings into other
14 operating cost-savings measures.

15 **Sec. 2.** Chapter 333A of NRS is hereby amended by adding
16 thereto a new section to read as follows:

17 *The Legislature hereby declares that it is the policy of this State*
18 *to encourage, to the extent practicable, a using agency to:*

19 *1. Utilize the process set forth in this chapter to implement*
20 *any operating cost-savings measure to reduce costs related to*
21 *energy, water or the disposal of waste, or related labor costs; and*

22 *2. Continually review whether the using agency could utilize*
23 *the process set forth in this chapter to implement any operating*
24 *cost-savings measure to reduce costs related to energy, water or*
25 *the disposal of waste, or related labor costs.*

26 **Sec. 3.** NRS 353.210 is hereby amended to read as follows:

27 353.210 1. Except as otherwise provided in subsections 6 and
28 7, on or before September 1 of each even-numbered year, all
29 departments, institutions and other agencies of the Executive
30 Department of the State Government, and all agencies of the
31 Executive Department of the State Government receiving state
32 money, fees or other money under the authority of the State,
33 including those operating on money designated for specific purposes



1 by the Nevada Constitution or otherwise, shall prepare, on blanks
2 furnished them by the Chief, and submit to the Chief:

3 (a) The number of full-time equivalent positions within the
4 department, institution or agency.

5 (b) The number of full-time equivalent positions within the
6 department, institution or agency that have been vacant for at least
7 12 months, the number of months each such position has been
8 vacant and the reasons for each such vacancy.

9 (c) Any existing contracts for services the department,
10 institution or agency has with temporary employment services or
11 other persons, the proposed expenditures for such contracts in the
12 next 2 fiscal years and the reasons for the use of such services. If
13 such contracts include any privatization contracts, a copy of each of
14 those privatization contracts together with:

15 (1) A statement specifying the duration of the privatization
16 contracts;

17 (2) The number of privatization contracts proposed for the
18 next 2 fiscal years and the estimated expenditures for the
19 privatization contracts; and

20 (3) An analysis of each of the privatization contracts, which
21 includes, without limitation:

22 (I) For the preceding, current and next fiscal years, the
23 annual amount required to perform each of the privatization
24 contracts; and

25 (II) For the preceding and current fiscal years, the number
26 of persons the department, institution or agency employed pursuant
27 to the privatization contracts, reflected as the equivalent full-time
28 position if the persons were regularly employed by the department,
29 institution or agency, including the equivalent hourly wage and the
30 cost of benefits for each job classification.

31 (d) *If the department, institution or agency has any existing*
32 *performance contracts that it has entered into pursuant to chapter*
33 *333A of NRS, any request to reinvest any savings realized under*
34 *such a contract for the next 2 fiscal years.*

35 (e) Estimates of expenditure requirements of the department,
36 institution or agency, together with all anticipated income from fees
37 and all other sources, for the next 2 fiscal years compared with the
38 corresponding figures of the last completed fiscal year and the
39 estimated figures for the current fiscal year.

40 2. The Chief shall direct that one copy of the forms submitted
41 pursuant to subsection 1, accompanied by every supporting schedule
42 and any other related material, be delivered directly to the Fiscal
43 Analysis Division of the Legislative Counsel Bureau on or before
44 September 1 of each even-numbered year.



1 3. The Budget Division of the Office of Finance shall give
2 advance notice to the Fiscal Analysis Division of the Legislative
3 Counsel Bureau of any conference between the Budget Division of
4 the Office of Finance and personnel of other state agencies
5 regarding budget estimates. A Fiscal Analyst of the Legislative
6 Counsel Bureau or his or her designated representative may attend
7 any such conference.

8 4. The estimates of expenditure requirements submitted
9 pursuant to subsection 1 must be classified to set forth the data
10 of funds, organizational units, and the character and objects of
11 expenditures by program or budgetary account and by category of
12 expense, and must include a mission statement and measurement
13 indicators in adequate detail to comply with the requirements of
14 subparagraph (3) of paragraph (b) of subsection 1 of NRS 353.205.
15 The organizational units may be subclassified by functions and by
16 agencies, bureaus or commissions, or in any other manner at the
17 discretion of the Chief.

18 5. If any department, institution or other agency of the
19 Executive Department of the State Government, whether its money
20 is derived from state money or from other money collected under
21 the authority of the State, fails or neglects to submit estimates of its
22 expenditure requirements as provided in this section, the Chief may,
23 from any data at hand in the Chief's office or which the Chief may
24 examine or obtain elsewhere, make and enter a proposed budget for
25 the department, institution or agency in accordance with the data.

26 6. Agencies, bureaus, commissions and officers of the
27 Legislative Department, the Public Employees' Retirement System
28 and the Judicial Department of the State Government shall submit to
29 the Chief for his or her information in preparing the proposed
30 executive budget the budgets which they propose to submit to the
31 Legislature.

32 7. On or before September 1 of each even-numbered year, the
33 Tahoe Regional Planning Agency shall submit the budget which the
34 Agency proposes to submit to the Legislature to:

35 (a) The Chief for his or her information in preparing the
36 proposed executive budget.

37 (b) The Fiscal Analysis Division of the Legislative Counsel
38 Bureau.

39 8. The information provided by a department, institution or
40 agency pursuant to paragraph (c) of subsection 1 is a public record
41 and must be open to public inspection.

42 9. As used in this section, "privatization contract" means a
43 contract executed by or on behalf of a department, institution or
44 agency which authorizes a private entity to provide public services
45 which are:



1 (a) Substantially similar to the services performed by the public
2 employees of the department, institution or agency; and

3 (b) In lieu of the services otherwise authorized or required to be
4 provided by the department, institution or agency.

5 **Sec. 4.** This act becomes effective on July 1, 2021.

