

Amendment No. 644

Senate Amendment to Assembly Bill No. 153 First Reprint	(BDR 27-708)
<b>Proposed by:</b> Senate Committee on Government Affairs	
<b>Amends:</b> Summary: No Title: No 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.

JFS/KRO



Date: 5/16/2021

A.B. No. 153—Revises provisions governing performance contracts.  
(BDR 27-708)





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.

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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 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:**

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

Existing law authorizes certain agencies in the Executive Department of the State Government, known as “using agencies,” to enter into performance contracts for the purchase and installation of operating cost-savings measures to reduce costs related to such matters as energy, water and the disposal of waste, and related labor costs. (NRS 333A.010-333A.150) **Section 2** of this bill makes a legislative declaration and states that it is the policy of the State to encourage, to the extent practicable, a using agency to: (1) utilize the provisions related to a performance contract to implement operating cost-savings measures to reduce costs related to energy, water or the disposal of waste; ~~or related labor costs;~~ and (2) continually review whether the using agency could utilize a performance contract to implement operating cost-savings measures to reduce costs related to energy, water or the disposal of waste. ~~or related labor costs.~~ **Section 3** of this bill authorizes such an agency to request the reinvestment of savings realized under such a performance contract as part of the process for the preparation of the proposed budget of the Executive Department.

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

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

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

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

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

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

~~1-2~~ (b) Complies with the requirements of NRS 332.300 to 332.440, inclusive, when reinvesting the savings into other operating cost-savings measures.

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

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

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

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

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

353.210 1. Except as otherwise provided in subsections 6 and 7, on or before September 1 of each even-numbered year, all departments, institutions and other agencies of the Executive Department of the State Government, and all agencies of the Executive Department of the State Government receiving state money, fees or other money under the authority of the State, including those operating on money designated for specific purposes by the Nevada Constitution or otherwise, shall prepare, on blanks furnished them by the Chief, and submit to the Chief:

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

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

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

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

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

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

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

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

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

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

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

17 3. The Budget Division of the Office of Finance shall give advance notice to  
18 the Fiscal Analysis Division of the Legislative Counsel Bureau of any conference  
19 between the Budget Division of the Office of Finance and personnel of other state  
20 agencies regarding budget estimates. A Fiscal Analyst of the Legislative Counsel  
21 Bureau or his or her designated representative may attend any such conference.

22 4. The estimates of expenditure requirements submitted pursuant to  
23 subsection 1 must be classified to set forth the data of funds, organizational units,  
24 and the character and objects of expenditures by program or budgetary account and  
25 by category of expense, and must include a mission statement and measurement  
26 indicators in adequate detail to comply with the requirements of subparagraph (3)  
27 of paragraph (b) of subsection 1 of NRS 353.205. The organizational units may be  
28 subclassified by functions and by agencies, bureaus or commissions, or in any other  
29 manner at the discretion of the Chief.

30 5. If any department, institution or other agency of the Executive Department  
31 of the State Government, whether its money is derived from state money or from  
32 other money collected under the authority of the State, fails or neglects to submit  
33 estimates of its expenditure requirements as provided in this section, the Chief may,  
34 from any data at hand in the Chief's office or which the Chief may examine or  
35 obtain elsewhere, make and enter a proposed budget for the department, institution  
36 or agency in accordance with the data.

37 6. Agencies, bureaus, commissions and officers of the Legislative  
38 Department, the Public Employees' Retirement System and the Judicial Department  
39 of the State Government shall submit to the Chief for his or her information in  
40 preparing the proposed executive budget the budgets which they propose to submit  
41 to the Legislature.

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

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

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

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

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

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

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

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