

ASSEMBLY BILL NO. 128—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE JOINT INTERIM STANDING
COMMITTEE ON GOVERNMENT AFFAIRS)

PREFILED JANUARY 28, 2025

Referred to Committee on Government Affairs

SUMMARY—Creates the Office of Public Records Ombudsman in
the Executive Department of State Government.
(BDR 19-400)

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 public records; creating the Office of Public
Records Ombudsman in the Executive Department of
State Government; setting forth the powers and duties of
the Ombudsman; authorizing a person to file a complaint
with the Ombudsman; revising provisions governing
judicial relief for actions relating to public records; and
providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law provides that, unless otherwise declared by law to be confidential,
all public books and records of a state or local governmental entity are required to
be open at all times during office hours for the public to inspect, copy or receive a
copy thereof. Existing law also authorizes a person to request a copy of a public
book or record in any medium in which the book or record is available. (NRS
239.010) **Section 2** of this bill creates the Office of Public Records Ombudsman as
an independent agency in the Executive Department of State Government and
requires the Governor to appoint a person as the Public Records Ombudsman.
Section 5 of this bill defines the term “Ombudsman.”

Section 3 of this bill sets forth the duties of the Ombudsman, which include
establishing a mediation program for complaints relating to public books and
records, investigating complaints relating to public books and records, and
providing training, education and educational material relating to public books
and records.

Section 4 of this bill authorizes a person to file a complaint with the
Ombudsman. Upon receiving a complaint, **section 4** requires the Ombudsman to



17 notify the governmental entity of the complaint and offer the parties the opportunity
18 to resolve the complaint through mediation. If a party refuses mediation or the
19 mediation is unsuccessful, **section 4** authorizes the Ombudsman to initiate an
20 investigation into the complaint and issue a final determination not later than 90
21 days after initiating the investigation and, if warranted, provide relief in the form
22 of: (1) denying the request for the release of the public book or record; (2) requiring
23 the governmental entity to permit the requester to inspect or copy the public book
24 or record; or (3) waiving or reducing the fee charged by the governmental entity for
25 providing a copy of the public book or record to the requester.

26 If a request for inspection, copying or copies of a public book or record is
27 denied or unreasonably delayed, or if the person making the request believes that
28 the fee charged by the governmental entity is excessive or improper, existing law
29 authorizes a requester to apply to a district court for an order permitting the
30 requester to make or receive a copy of the book or record or providing relief
31 relating to the amount of the fee. (NRS 239.011) **Sections 4 and 6** of this bill
32 authorize a requester or governmental entity that is aggrieved by the final
33 determination of the Ombudsman to seek judicial relief.

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

1 **Section 1.** Chapter 239 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2, 3 and 4 of this act.

3 **Sec. 2. 1. *The Office of Public Records Ombudsman is***
4 ***hereby created as an independent agency in the Executive***
5 ***Department of State Government.***

6 **2. *The Governor shall appoint the Public Records***
7 ***Ombudsman who must have experience with the laws of this State***
8 ***relating to public records. The Ombudsman is in the unclassified***
9 ***service of the State.***

10 **3. *Within the limits of money available for such purpose, the***
11 ***Ombudsman may employ personnel to assist the Ombudsman in***
12 ***carrying out his or her duties.***

13 **4. *The Ombudsman may adopt regulations to carry out the***
14 ***provisions of this section and sections 3 and 4 of this act.***

15 **Sec. 3. 1. *The Ombudsman shall:***

16 ***(a) Establish a mediation program in accordance with section***
17 ***4 of this act to facilitate the resolution of disputes relating to***
18 ***public books and records;***

19 ***(b) Investigate complaints filed pursuant to section 4 of this***
20 ***act;***

21 ***(c) Provide training on public books and records to***
22 ***governmental entities and the staff thereof;***

23 ***(d) Educate the public on the rights of the public and the***
24 ***responsibilities of governmental entities under the public records***
25 ***laws of this State; and***



1 (e) Prepare educational material relating to public books and
2 records.

3 2. To carry out the duties set forth in subsection 1, the
4 Ombudsman may:

5 (a) Notwithstanding any other provision of law, have access to
6 all books and records of a governmental entity, including, without
7 limitation, any confidential records of the governmental entity;
8 and

9 (b) Issue subpoenas if necessary to compel the attendance and
10 testimony of witnesses and the production of books, records,
11 documents and other evidence to which the Ombudsman may need
12 access.

13 **Sec. 4. 1.** If a person whose request to inspect or copy a
14 public book or record is denied or unreasonably delayed, or if the
15 person believes that the fee charged by the governmental entity for
16 providing the copy of the public book or record is excessive or
17 improper, the person may file a complaint with the Ombudsman
18 within 60 days after the date of the denial or notice of fee. The
19 complaint must be in writing and must include, without limitation,
20 a copy of the request to inspect or copy the public book or record
21 and any responses from the governmental entity.

22 2. Upon receipt of a complaint filed pursuant to subsection 1,
23 the Ombudsman shall notify the governmental entity of the
24 complaint and offer the parties the opportunity to resolve the
25 complaint through mediation. The Ombudsman shall prepare a
26 mediation report with the results and any agreement resulting
27 from the mediation.

28 3. If either party declines mediation or the mediation
29 conducted pursuant to subsection 2 fails, the Ombudsman may, in
30 his or her discretion, initiate an investigation into the complaint.
31 The governmental entity may present the Ombudsman with any
32 statement or information concerning the complaint as to the
33 availability of the public book or record. Not later than 90 days
34 after initiating an investigation, the Ombudsman shall issue a
35 final determination. In a final determination, the Ombudsman
36 may:

37 (a) Deny the request to release the public book or record;

38 (b) Require the governmental entity to permit the requester to
39 inspect or copy the public book or record; or

40 (c) Waive or reduce any fees charged by the governmental
41 entity for providing a copy of the public book or record.

42 4. If either party is aggrieved by the final determination of the
43 Ombudsman, that party may seek judicial review of the decision
44 pursuant to NRS 239.011.



1 **Sec. 5.** NRS 239.005 is hereby amended to read as follows:
2 239.005 As used in this chapter, unless the context otherwise
3 requires:

4 1. "Actual cost" means the direct cost incurred by a
5 governmental entity in the provision of a public record, including,
6 without limitation, the cost of ink, toner, paper, media and postage.
7 The term does not include a cost that a governmental entity incurs
8 regardless of whether or not a person requests a copy of a particular
9 public record.

10 2. "Agency of the Executive Department" means an agency,
11 board, commission, bureau, council, department, division, authority
12 or other unit of the Executive Department of the State Government.
13 The term does not include the Nevada System of Higher Education.

14 3. "Committee" means the Committee to Approve Schedules
15 for the Retention and Disposition of Official State Records.

16 4. "Division" means the Division of State Library, Archives
17 and Public Records of the Department of Administration.

18 5. "Governmental entity" means:

19 (a) An elected or appointed officer of this State or of a political
20 subdivision of this State;

21 (b) An institution, board, commission, bureau, council,
22 department, division, authority or other unit of government of this
23 State, including, without limitation, an agency of the Executive
24 Department, or of a political subdivision of this State;

25 (c) A university foundation, as defined in NRS 396.405;

26 (d) An educational foundation, as defined in NRS 388.750, to
27 the extent that the foundation is dedicated to the assistance of public
28 schools; or

29 (e) A library foundation, as defined in NRS 379.0056, to the
30 extent that the foundation is dedicated to the assistance of a public
31 library.

32 6. "Official state record" includes, without limitation:

33 (a) Papers, unpublished books, maps and photographs;

34 (b) Information stored on magnetic tape or computer, laser or
35 optical disc;

36 (c) Materials that are capable of being read by a machine,
37 including, without limitation, microforms and audio and visual
38 materials; and

39 (d) Materials that are made or received by a state agency and
40 preserved by that agency or its successor as evidence of the
41 organization, operation, policy or any other activity of that agency
42 or because of the information contained in the material.

43 7. *"Ombudsman" means the Public Records Ombudsman*
44 *appointed pursuant to section 2 of this act.*



1 8. "Privatization contract" means a contract executed by or on
2 behalf of a governmental entity which authorizes a private entity to
3 provide public services that are:

4 (a) Substantially similar to the services provided by the public
5 employees of the governmental entity; and

6 (b) In lieu of the services otherwise authorized or required to be
7 provided by the governmental entity.

8 **Sec. 6.** NRS 239.011 is hereby amended to read as follows:

9 239.011 1. If a request for inspection, copying or copies of a
10 public book or record open to inspection and copying is denied or
11 unreasonably delayed, ~~for~~ if a person who requests a copy of a
12 public book or record believes that the fee charged by the
13 governmental entity for providing the copy of the public book or
14 record is excessive or improper ~~is~~ *or if the requester is aggrieved*
15 *by the final determination of the Ombudsman issued pursuant to*
16 *section 4 of this act*, the requester may apply to the district court in
17 the county in which the book or record is located for an order:

18 (a) Permitting the requester to inspect or copy the book or
19 record;

20 (b) Requiring the person who has legal custody or control of the
21 public book or record to provide a copy to the requester; or

22 (c) Providing relief relating to the amount of the fee,
23 ↪ as applicable.

24 2. *If a governmental entity is aggrieved by the final*
25 *determination of the Ombudsman issued pursuant to section 4 of*
26 *this act, the governmental entity may apply to the district court in*
27 *the county in which the book or record is located for an order*
28 *denying the request to inspect or copy the book or record or*
29 *approving the amount of the fee charged by the governmental*
30 *entity for the public book or record.*

31 3. The court shall give this matter priority over other civil
32 matters to which priority is not given by other statutes. If the
33 requester prevails, the requester is entitled to recover from the
34 governmental entity that has legal custody or control of the record
35 his or her costs and reasonable attorney's fees in the proceeding.

36 ~~3.~~ 4. If the governmental entity appeals the decision of the
37 district court and the decision is affirmed in whole or in part, the
38 requester is entitled to recover from the governmental entity that has
39 legal custody or control of the record his or her costs and reasonable
40 attorney's fees for the appeal.

41 ~~4.~~ 5. The rights and remedies recognized by this section are
42 in addition to any other rights or remedies that may exist in law or in
43 equity.



