

SENATE BILL NO. 157—SENATOR SHAFFER

FEBRUARY 15, 2001

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing Comstock historic district. (BDR 33-954)

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 historic districts; revising the duties of the Comstock historic district commission; requiring the board of county commissioners of certain counties to establish certain historic districts within those counties; and providing other matters properly relating thereto.

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

- 1 **Section 1.** NRS 384.030 is hereby amended to read as follows:
- 2 384.030 As used in NRS 384.010 to 384.210, inclusive:
- 3 1. ***“Board” means the board of county commissioners of Lyon***
- 4 ***County or Storey County.***
- 5 2. “Commission” means the ***advisory commission for the*** Comstock
- 6 historic district. ~~commission.~~
- 7 ~~2.~~ 3. “Exterior architectural features” means the architectural style,
- 8 general design and general arrangement of the exterior of a structure,
- 9 including the kind and texture of the building material, the type and style of
- 10 all windows, doors, light fixtures and signs, color, and other appurtenant
- 11 fixtures.
- 12 ~~3.~~ 4. “Historic district” means an area within which structures and
- 13 places of historical interest are under the protection of ~~the commission.~~
- 14 ~~4.~~ ***a board.***
- 15 5. “Structure” means any building ~~for whatever~~ , ***regardless of the***
- 16 ***purpose for which it is*** constructed or used, house trailer as defined in NRS
- 17 484.069, mobile home as defined in NRS 484.0795, stone wall, fence, light
- 18 fixture, step, paving, advertising sign, bill poster and any fixture
- 19 appurtenant thereto. ~~but~~ ***The term*** does not include ~~structures or signs~~
- 20 ***a structure or sign*** of a temporary nature ~~such as those erected for~~
- 21 ~~celebrations or parades.~~ , ***including, without limitation, a structure or***
- 22 ***sign erected for a celebration or parade.***



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1 **Sec. 2.** NRS 384.040 is hereby amended to read as follows:
2 384.040 The *advisory commission for the* Comstock historic district ,
3 ~~{commission,}~~ consisting of nine members appointed by the governor, is
4 hereby created.

5 **Sec. 3.** NRS 384.060 is hereby amended to read as follows:
6 384.060 1. Meetings of the commission ~~{shall}~~ **must** be held at such
7 times and places as the chairman or a majority of the commissioners may
8 designate . ~~{, or as shall be established by the regulations adopted by the~~
9 ~~commission.}~~

10 2. Five members of the commission ~~{shall}~~ constitute a quorum for all
11 purposes and the affirmative vote of a majority of the members present
12 ~~{shall be necessary}~~ **is required** for the adoption ~~{or promulgation}~~ of any
13 ~~{regulation or order}~~ **recommendation** of the commission ~~{, or for any~~
14 ~~other action taken by the commission.}~~

15 **Sec. 4.** NRS 384.070 is hereby amended to read as follows:
16 384.070 1. The commission may establish and maintain an office in
17 Virginia City, Storey County, Nevada, in which there ~~{shall}~~ **must** be at all
18 times open to public inspection a complete record of applications for
19 certificates of appropriateness and their disposition ~~{, and the}~~ minutes of
20 the commission's meetings . ~~{, and any regulations adopted by the~~
21 ~~commission.}~~

22 2. The commission shall maintain a library in the office ~~{for the~~
23 ~~purpose of guiding}~~ **to guide** applicants in their design or embellishment of
24 the exterior of their *new or remodeled* buildings . ~~{, new or remodeled.}~~
25 The library ~~{shall}~~ **must** consist of, ~~{but not be limited to,}~~ **without**
26 **limitation**, documents, paintings, photographs, drawings and histories
27 descriptive of the period which are deemed appropriate guidelines to the
28 applicant. A card index system ~~{shall also}~~ **must** be made and maintained
29 for reference to more comprehensive information in libraries other than the
30 ~~{one}~~ **library** maintained by the commission.

31 **Sec. 5.** NRS 384.080 is hereby amended to read as follows:
32 384.080 1. The commission ~~{is vested with all of the functions and~~
33 ~~powers relating to the administration} :~~

34 *(a) Shall, if requested by a board, submit a recommendation to the*
35 *board concerning the issuance of a certificate of appropriateness or any*
36 *other action proposed by the board in accordance with the provisions* of
37 NRS 384.010 to 384.210, inclusive ~~{,~~
38 ~~—2.— It may,} ; and~~

39 *(b) May,* to the extent permitted by money appropriated or otherwise
40 received therefor, employ such technical and clerical personnel, including a
41 building inspector, as may be necessary to the discharge of its duties, and
42 fix their compensation.

43 2. *Each recommendation prepared by the commission pursuant to*
44 *the provisions of subsection 1 must be submitted to the board within the*
45 *period specified by the board. A board is not bound by any*
46 *recommendation submitted to it by the commission.*

47 **Sec. 6.** NRS 384.090 is hereby amended to read as follows:
48 384.090 ~~{The commission}~~ **Each board** may appoint such committees
49 and subcommittees and adopt ~~{such reasonable regulations as are}~~



1 ~~necessary~~ ordinances to carry out the provisions of NRS 384.010 to
2 384.210, inclusive.

3 **Sec. 7.** NRS 384.100 is hereby amended to read as follows:

4 384.100 1. ~~The commission~~ Each board shall establish ~~an~~ a
5 historic district in ~~such portions of Storey and Lyon counties as it may~~
6 ~~designate as provided in~~ its county in accordance with NRS 384.010 to
7 384.210, inclusive. ~~embracing~~ Each historic district must embrace an
8 area within which historic structures, sites and railroads relating to the
9 Comstock lode and its history are or were located.

10 2. Before establishing ~~the district, the commission~~ a historic district
11 pursuant to the provisions of subsection 1, a board shall hold a public
12 hearing after giving notice of the time and place of the hearing in a
13 newspaper of general circulation in each county a portion of which is
14 located within the proposed historic district.

15 3. The notice must be published once a week for 3 consecutive weeks
16 and must include the purpose of the hearing and the boundaries of the
17 proposed historic district.

18 4. At the hearing, any person may appear in support of or in
19 opposition to the establishment of the historic district.

20 5. Within 15 days after the hearing, the ~~commission~~ board shall:

21 (a) Establish ~~an~~ a historic district within its county and fix its
22 boundaries; or

23 (b) Determine not to establish ~~an~~ a historic district.

24 6. If ~~an~~ a historic district is established, notice thereof must be given
25 by one publication in a newspaper of general circulation in each county a
26 portion of which is located within the historic district.

27 7. ~~The commission~~ A board may alter or change the boundaries of
28 the historic district located within its county by following the same
29 procedure as provided in this section for the establishment of a historic
30 district.

31 8. After ~~an~~ a historic district is established, no house trailer, mobile
32 home, or recreational vehicle may be placed or established in any area
33 within the district, unless the ~~commission and the board of county~~
34 ~~commissioners~~ board in the appropriate county ~~by agreement, permit~~
35 permits the establishment of a trailer overlay or the location of a mobile
36 home park within the portion of the district ~~located in its county~~, upon a
37 finding that such an action is needed and that it would not conflict with the
38 historic aspect and character of the affected area.

39 **Sec. 8.** NRS 384.110 is hereby amended to read as follows:

40 384.110 1. No structure may be erected, reconstructed, altered,
41 restored, moved or demolished within ~~the~~ a historic district until after an
42 application for a certificate of appropriateness as to exterior architectural
43 features has been submitted to and approved by the ~~commission~~ board of
44 the county in which the district is located. The application for a certificate
45 of appropriateness ~~shall~~ must be in such a form and accompanied by such
46 plans, specifications and other material as the ~~commission~~ board may
47 from time to time prescribe.

48 2. In its deliberations under the provisions of NRS 384.010 to 384.210,
49 inclusive, the ~~commission~~ board shall not consider interior arrangement



1 or use, and shall take no action ~~under~~ *pursuant to the provisions of* NRS
2 384.010 to 384.210, inclusive, except ~~for the purpose of preventing~~ *to*
3 *prevent* the erection, reconstruction, restoration, alteration, moving or
4 razing of buildings ~~in the~~ *located within its historic* district *that are*
5 obviously incongruous with the historic aspects of the district.

6 3. ~~Nothing in~~ *The provisions of* NRS 384.010 to 384.210, inclusive,
7 ~~prevents~~ *do not prohibit:*

8 (a) The ordinary maintenance or repair of any exterior architectural
9 feature in ~~the~~ *a* historic district which does not involve a change of design
10 or material or the outward appearance thereof;

11 (b) The construction, reconstruction, alteration or demolition of any
12 such feature which the building inspector or similar authority certifies is
13 required by the public safety because of an unsafe or dangerous condition;
14 or

15 (c) The construction, reconstruction, alteration or demolition of any
16 such feature under a permit issued by a building inspector or similar
17 authority ~~prior to~~ *before* the effective date of the establishment of ~~such~~
18 *the historic* district.

19 **Sec. 9.** NRS 384.120 is hereby amended to read as follows:

20 384.120 1. ~~The commission~~ *A board* shall hold a public hearing
21 upon each application for a certificate of appropriateness *that is submitted*
22 *to it* unless waived in writing by ~~all persons~~ *each person who is* entitled
23 to *a* notice thereof as provided in this section.

24 2. Within 30 days after the filing of an application for a certificate of
25 appropriateness, Saturdays, Sundays and legal holidays excluded, the
26 ~~commission~~ *board* shall determine the estates and property deemed by it
27 to be materially affected by ~~such~~ *the* application and, unless a public
28 hearing on ~~such~~ *the* application is waived by ~~all persons~~ *each person*
29 entitled to notice, shall forthwith cause *a* notice of ~~such~~ *the* application
30 and of the hearing to be held thereon to be given by regular mail, postage
31 prepaid, to the applicant, to the owners of all such estates or property as
32 they appear on the most recent tax list, and to any person who has filed a
33 written request for *a* notice of hearings during the preceding calendar year.
34 The notices ~~shall~~ *must* be mailed at least 10 days ~~prior to~~ *before* the
35 date set for the hearing.

36 3. The ~~commission~~ *board* may, if it determines the matter to be of
37 sufficient public interest, give an additional notice of the time and place of
38 the hearing by publication in the form of a legal advertisement in a
39 newspaper having a substantial circulation in the *historic* district *located*
40 *within the county of the board. The notice must be published* at least 7
41 days before ~~such~~ *the* hearing.

42 **Sec. 10.** NRS 384.130 is hereby amended to read as follows:

43 384.130 As soon as practicable after ~~such~~ *the* public hearing, or the
44 waiver thereof, but not more than 60 days, Saturdays, Sundays and legal
45 holidays excluded, after the filing of the application for the certificate of
46 appropriateness, or within such further time as the applicant may in writing
47 allow, the ~~commission~~ *board* shall determine:

48 1. That the proposed erection, construction, reconstruction, restoration,
49 alteration, moving or razing of the exterior architectural feature involved



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1 ~~{will be}~~ *is* appropriate to the preservation of the historic district for the
2 purposes of NRS 384.010 to 384.210, inclusive;
3 2. That, even though the proposed project may be inappropriate,
4 failure to issue a certificate *of appropriateness* would involve a substantial
5 hardship to the applicant because of conditions especially affecting the
6 structure involved, but not affecting the historic district generally, and that
7 a certificate ~~{could}~~ *of appropriateness may* be issued without *a* substantial
8 detriment to the public welfare or the purposes of NRS 384.010 to 384.210,
9 inclusive; or
10 3. That the proposed project is inappropriate.
11 **Sec. 11.** NRS 384.140 is hereby amended to read as follows:
12 384.140 1. In passing upon appropriateness, ~~{the commission}~~ *a*
13 *board* shall consider, in addition to any other pertinent factors:
14 (a) Historic and architectural value and significance;
15 (b) Architectural style;
16 (c) Location on the lot;
17 (d) Position of the structure in relation to the street or public way and
18 whether it is subject to public view from a public place;
19 (e) General design, arrangement, texture, material, color and size of the
20 exterior architectural features involved and the relationship thereof to the
21 exterior architectural features of other structures in the immediate
22 neighborhood; and
23 (f) The relationship of the exterior architectural features to well
24 recognized styles of early western architecture of the late 19th and early
25 20th centuries.
26 2. A certificate of appropriateness may be refused for any structure the
27 erection, reconstruction, restoration, alteration, moving or razing of which,
28 in the opinion of the ~~{commission}~~ *board*, would be detrimental to the
29 interest of the historic district *located within the county of that board* or
30 incongruous with the historic aspects of the surroundings and the historic
31 environment of the *historic* district.
32 **Sec. 12.** NRS 384.150 is hereby amended to read as follows:
33 384.150 1. If ~~{the commission}~~ *a board* determines that the proposed
34 construction, reconstruction, restoration, alteration, moving or razing of the
35 exterior architectural feature involved ~~{will be}~~ *is* appropriate, or, although
36 inappropriate, that failure to issue a certificate *of appropriateness* would
37 result in *a* hardship as provided in subsection 2 of NRS 384.130, or if ~~{the~~
38 ~~commission}~~ *a board* fails to make a determination within the ~~{time}~~
39 *period* prescribed in NRS 384.130, the ~~{commission}~~ *board* shall
40 immediately issue to the applicant a certificate of appropriateness. The
41 ~~{commission}~~ *board* may charge and collect a reasonable fee for issuing
42 the certificate. If a fee is charged, 50 percent of the proceeds must be
43 deposited in the state general fund for credit to the appropriate account for
44 the Comstock historic district and 50 percent must be deposited in a
45 nonreverting account for the restoration of the fourth ward school in
46 Virginia City, which is hereby created. ~~{Money}~~ *The money* in the account
47 for the restoration of the fourth ward school may be expended only upon
48 approval by the ~~{commission}~~ *board of county commissioners of Storey*
49 *County*.



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1 2. In exercising the power to vary or modify strict ~~adherence to~~
2 *compliance with* the provisions of NRS 384.010 to 384.210, inclusive, or
3 to interpret the meaning of NRS 384.010 to 384.210, inclusive, so as to
4 relieve *a* hardship under the provisions of subsection 2 of NRS 384.130,
5 ~~the commission~~ *a board* shall require any variance, modification or
6 interpretation to be in harmony with the general purpose and intent of NRS
7 384.010 to 384.210, inclusive, so that the general historical character of the
8 *historic* district *within its county* is conserved and substantial justice done.
9 In allowing variations, ~~the commission~~ *a board* may impose such
10 reasonable and additional conditions as will, in its judgment, better fulfill
11 the purposes of NRS 384.010 to 384.210, inclusive.

12 3. If ~~the commission~~ *a board* determines that a certificate of
13 appropriateness should not issue, it shall immediately set forth in its
14 records the reasons for the determination, and may include
15 recommendations ~~respecting~~ *concerning* the proposed erection,
16 construction, restoration, alteration, moving or razing, and shall
17 immediately notify the applicant of the determination by transmitting to
18 him an attested copy of the reasons and recommendations, if any, as set
19 forth in the records of the ~~commission~~ *board*.

20 4. The applicant may appeal a refusal of ~~the commission~~ *a board* to
21 issue a certificate of appropriateness to the board of museums and history
22 within 30 days after its determination and the board ~~of museums and~~
23 *history*, after a hearing on the matter, may:

24 (a) Approve the application with or without conditions by a unanimous
25 vote; or

26 (b) Deny the application.

27 If the board *of museums and history* approves the application, the
28 ~~commission~~ *board that refused to issue a certificate of appropriateness*
29 shall immediately issue a certificate of appropriateness to the applicant.

30 **Sec. 13.** NRS 384.170 is hereby amended to read as follows:

31 384.170 1. ~~The commission~~ *A board* may accept gifts, donations,
32 devises or bequests of real or personal property ~~for the purpose of~~
33 ~~enabling~~ *to enable* it to carry out a program of historic preservation and
34 restoration within *that portion of* the *historic* district ~~located within its~~
35 *county*, and it may expend the same for that purpose. ~~The commission~~ *A*
36 *board* may sell, or lease for ~~periods not to exceed~~ *not more than* 20
37 years, real or personal property for use within *that portion of* the *historic*
38 district which it may acquire.

39 2. ~~The commission~~ *A board* shall deposit gifts or donations of money
40 and any money acquired from selling or leasing the items described in
41 subsection 1 in the trust fund for the Comstock historic district which is
42 hereby created in the state treasury. The fund must be administered by the
43 commission. Any interest earned on the money in the fund must be
44 credited to the fund. The money deposited in the fund and all interest paid
45 thereon may be expended only *upon the approval of each board* for the
46 maintenance of the commission or to carry out the program of historic
47 preservation and restoration within ~~the~~ *a historic* district.

48 3. The commission ~~has no~~ *may not exercise the* power of eminent
49 domain.



1 **Sec. 14.** NRS 384.180 is hereby amended to read as follows:
2 384.180 The commission may recommend:
3 1. To the state and to political subdivisions within ~~the~~ *a historic*
4 district appropriate measures to effectuate, supplement, foster and promote
5 the purposes of NRS 384.010 to 384.210, inclusive.
6 2. To any political subdivision within ~~the~~ *a historic* district
7 appropriate zoning and traffic regulations, including , but not limited to ,
8 designating mobile home and trailer sites, parking, modes of public
9 transportation, ingress and egress to public streets and alleys, and *the*
10 closing of such streets or alleys or restriction of vehicular traffic thereon in
11 order to effectuate the purposes of NRS 384.010 to 384.210, inclusive,
12 ~~such as~~ *including, without limitation,* restoration of historic modes of
13 travel and safety of pedestrians.
14 **Sec. 15.** NRS 384.190 is hereby amended to read as follows:
15 384.190 1. ~~The~~ *A* building inspector employed by the commission
16 *or a board* may investigate, inspect and examine any structure, place or
17 area in ~~the district, either~~ *a historic district*, in connection with an
18 application for a certificate of appropriateness, or at any time to determine
19 whether it is in violation of any provision of NRS 384.010 to 384.210,
20 inclusive, or any ~~regulation~~ *ordinance* or order adopted or issued ~~under~~
21 ~~authority~~ *pursuant to the provisions* of NRS 384.010 to 384.210,
22 inclusive.
23 2. ~~Whenever~~ *If* any work is being ~~done~~ *conducted* contrary to the
24 provisions of NRS 384.010 to 384.210, inclusive, the building inspector
25 may order the work stopped by notice in writing served on any person
26 engaged in the doing or causing ~~such~~ *the* work to be ~~done,~~ *conducted,*
27 and any such person shall forthwith stop ~~such~~ *the* work until authorized
28 *to proceed with the work* by the ~~commission to proceed with the work,~~
29 *board of the county in which the work is being conducted.*
30 **Sec. 16.** NRS 384.200 is hereby amended to read as follows:
31 384.200 1. Any person who violates any of the provisions of NRS
32 384.010 to 384.210, inclusive, or any ~~regulation~~ *ordinance* or order
33 adopted or issued pursuant to the provisions of NRS 384.010 to 384.210,
34 inclusive, shall be punished by a fine of not more than \$500 for each
35 offense. Each day of the violation constitutes a separate offense.
36 2. The district court of the county in which any property subject to the
37 provisions of NRS 384.010 to 384.210, inclusive, is located has
38 jurisdiction to enforce the provisions of NRS 384.010 to 384.210,
39 inclusive, and any ~~regulations~~ *ordinances* or orders adopted or issued
40 pursuant to the provisions of NRS 384.010 to 384.210, inclusive, and may
41 restrain by injunction violations thereof.
42 **Sec. 17.** NRS 384.210 is hereby amended to read as follows:
43 384.210 1. Any person aggrieved by a determination of ~~the~~
44 ~~commission,~~ *a board* or of the board of museums and history made
45 pursuant to *the provisions of* subsection 4 of NRS 384.150, may, within 30
46 days after the making of the determination, appeal to the district court of
47 the county where the property in question is located.
48 2. The court may reverse the determination of ~~the commission~~ *a*
49 *board* if it finds that the reasons given for the determination are



1 unsupported by the evidence or contrary to law. The proceeding in the
2 district court is limited to the record made before the ~~commission.~~ *board.*
3 **Sec. 18.** The amendatory provisions of this act do not invalidate a
4 certificate of appropriateness issued before the effective date of this act.
5 **Sec. 19.** This act becomes effective upon passage and approval.

