

SENATE BILL NO. 328—COMMITTEE ON HUMAN  
RESOURCES AND FACILITIES

(ON BEHALF OF DEPARTMENT OF HUMAN  
RESOURCES—DIRECTOR'S OFFICE)

MARCH 13, 2001

Referred to Committee on Human Resources and Facilities

SUMMARY—Revises provisions regarding requirement to obtain prior approval of certain expenditures for new construction by or on behalf of health facilities in certain counties. (BDR 40-408)

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 health care; repealing the requirement to obtain prior state approval of certain expenditures for new construction by or on behalf of health facilities in certain counties; authorizing the boards of county commissioners of certain counties to require prior approval of such expenditures; 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.** Chapter 439A of NRS is hereby amended by adding  
2     thereto a new section to read as follows:  
3     ***1. A board of county commissioners of a county whose population is***  
4     ***less than 100,000 may:***  
5     ***(a) On or before June 30 of an odd-numbered year, submit a written***  
6     ***request to the director requesting the department to carry out the***  
7     ***provisions of NRS 439A.100 in the county for the period beginning on***  
8     ***July 1 of that year and ending on June 30 of the next odd-numbered***  
9     ***year; or***  
10    ***(b) Except as otherwise provided in this section, adopt an ordinance***  
11    ***prohibiting any person from undertaking any proposed expenditure for***  
12    ***new construction in the county by or on behalf of a health facility in***  
13    ***excess of the greater of \$2,000,000 or such an amount as the board of***  
14    ***county commissioners may specify in the ordinance, which under***  
15    ***generally accepted accounting principles consistently applied is a capital***



1 expenditure, without first applying for and obtaining the written approval  
2 of an administrative officer designated by the board of county  
3 commissioners in the ordinance. The health division of the department  
4 shall not issue a new license or alter an existing license for such a  
5 project in a county where such an ordinance is in effect unless the  
6 administrative officer has issued such an approval.

7 2. No ordinance adopted pursuant to the provisions of subsection 1  
8 may apply:

9 (a) During any period in which the department is carrying out the  
10 provisions of NRS 439A.100 in the county;

11 (b) To any capital expenditure for:

12 (1) The acquisition of land;

13 (2) The construction of a facility for parking;

14 (3) The maintenance of a health facility;

15 (4) The renovation of a health facility to comply with standards for  
16 safety, licensure, certification or accreditation;

17 (5) The installation of a system to conserve energy;

18 (6) The installation of a system for data processing or  
19 communication; or

20 (7) Any other project which, in the opinion of the administrative  
21 officer, does not relate directly to the provision of any health service; or

22 (c) To any project for the development of a health facility that has  
23 received legislative approval and authorization.

24 Upon determining that a project satisfies the requirements for an  
25 exemption pursuant to this subsection, the administrative officer shall  
26 issue a certificate which states that the project is exempt from the  
27 requirements of an ordinance adopted pursuant to this section.

28 3. In reviewing an application for approval, the administrative  
29 officer shall:

30 (a) Comparatively assess applications for similar projects affecting the  
31 same geographic area; and

32 (b) Base his decision on criteria established by the board of county  
33 commissioners by ordinance. The criteria must include:

34 (1) The need for and the appropriateness of the project in the area  
35 to be served;

36 (2) The financial feasibility of the project;

37 (3) The effect of the project on the cost of health care; and

38 (4) The extent to which the project is consistent with the purposes  
39 set forth in NRS 439A.020 and the priorities set forth in NRS 439A.081.

40 4. A board of county commissioners that has adopted an ordinance  
41 pursuant to subsection 1 may by ordinance require additional approval  
42 for a proposed change to a project which has previously been approved if  
43 the proposal would result in a change in the location of the project or a  
44 substantial increase in the cost of the project. An ordinance adopted  
45 pursuant to this subsection must be made to become effective only during  
46 the effective period of an ordinance adopted pursuant to subsection 1.

47 5. The decision of the administrative officer is a final decision for the  
48 purposes of judicial review.



1     **Sec. 2.** NRS 439A.081 is hereby amended to read as follows:  
2     439A.081 1. The department is the agency of the State of Nevada for  
3     health planning and development, and shall carry out the state  
4     administrative program and perform the functions of health planning and  
5     development for the state in accordance with the following priorities:

6     (a) Providing for the effective use of methods for controlling increases  
7     in the cost of health care;

8     (b) Providing for the adequate supply and distribution of health  
9     resources;

10    (c) Providing for equal access to health care of good quality at a  
11    reasonable cost; and

12    (d) Providing education to the public regarding proper personal health  
13    care and methods for the effective use of available health services.

14    2. In order to carry out the provisions of ~~[this chapter,]~~ **NRS 439A.020**  
15    **to 439A.120, inclusive,** the director may:

16    (a) Delegate the duties of the director and the department pursuant to  
17    ~~[this chapter]~~ **those provisions** to any of the divisions of the department;

18    (b) Hire employees in the classified service;

19    (c) Adopt such regulations as are necessary; and

20    (d) Apply for, accept and disburse money granted by the Federal  
21    Government for the purposes of health planning and development.

22    3. The department may, by regulation, fix fees to be collected from  
23    applicants seeking **any** approval **from the department** of proposed health  
24    facilities or services. The amounts of such fees must be based upon the  
25    department's costs of examining and acting upon the applications.

26    4. In developing and revising any state plan for health planning and  
27    development, the department shall consider, among other things, the  
28    amount of money available from the Federal Government for health  
29    planning and development and the conditions attached to the acceptance of  
30    that money, and the limitations of legislative appropriations for health  
31    planning and development.

32    **Sec. 3.** NRS 439A.100 is hereby amended to read as follows:

33    439A.100 1. Except as otherwise provided in this section, in a  
34    county whose population is less than 100,000, no person may undertake  
35    any proposed expenditure for new construction by or on behalf of a health  
36    facility in excess of the greater of \$2,000,000 or such an amount as the  
37    department may specify by regulation, which under generally accepted  
38    accounting principles consistently applied is a capital expenditure, without  
39    first applying for and obtaining the written approval of the director. The  
40    health division of the department ~~[of human resources]~~ shall not issue a  
41    new license or alter an existing license for such a project unless the director  
42    has issued such an approval.

43    2. The provisions of subsection 1 ~~[do]~~ :

44    (a) **Apply only in a county for which the director has received a**  
45    **written request pursuant to subsection 1 of section 1 of this act and**  
46    **during the period specified in the request; and**

47    (b) **Do** not apply to:

48    ~~[(a)]~~ (I) Any capital expenditure for:

49    ~~[(1)]~~ (I) The acquisition of land;



\* S B 3 2 8 \*

1       ~~(2)~~ ~~(III)~~ The construction of a facility for parking;  
2       ~~(3)~~ ~~(III)~~ The maintenance of a health facility;  
3       ~~(4)~~ ~~(IV)~~ The renovation of a health facility to comply with  
4 standards for safety, licensure, certification or accreditation;  
5       ~~(5)~~ ~~(V)~~ The installation of a system to conserve energy;  
6       ~~(6)~~ ~~(VI)~~ The installation of a system for data processing or  
7 communication; or  
8       ~~(7)~~ ~~(VII)~~ Any other project which, in the opinion of the director,  
9 does not relate directly to the provision of any health service; or  
10       ~~(8)~~ ~~(2)~~ Any project for the development of a health facility that has  
11 received legislative approval and authorization.  
12 Upon determining that a project satisfies the requirements for an exemption  
13 pursuant to this subsection, the director shall issue a certificate which states  
14 that the project is exempt from the requirements of this section.  
15       3. In reviewing an application for approval, the director shall:  
16       (a) Comparatively assess applications for similar projects affecting the  
17 same geographic area; and  
18       (b) Base his decision on criteria established by the director by  
19 regulation. The criteria must include:  
20       (1) The need for and the appropriateness of the project in the area to  
21 be served;  
22       (2) The financial feasibility of the project;  
23       (3) The effect of the project on the cost of health care; and  
24       (4) The extent to which the project is consistent with the purposes set  
25 forth in NRS 439A.020 and the priorities set forth in NRS 439A.081.  
26       4. The department may by regulation require additional approval for a  
27 proposed change to a project which has previously been approved if the  
28 proposal would result in a change in the location of the project or a  
29 substantial increase in the cost of the project. *A regulation adopted*  
30 *pursuant to this subsection applies only in a county for which the*  
31 *director has received a written request pursuant to subsection 1 of section*  
32 *1 of this act and during the period specified in the request.*  
33       5. The decision of the director is a final decision for the purposes of  
34 judicial review.  
35       **Sec. 4.** NRS 439A.110 is hereby amended to read as follows:  
36       439A.110 1. Except as *otherwise* provided in subsection 2, the  
37 department may apply to any court of competent jurisdiction to enjoin any  
38 person, state agency or local governmental agency which has engaged in or  
39 is about to engage in any act which violates any provision of ~~this chapter~~  
40 *NRS 439A.020 to 439A.100, inclusive*, or the regulations adopted pursuant  
41 thereto. Such *an* injunction may be issued without proof of actual damage  
42 sustained by any person.  
43       2. The department shall not seek injunctive relief under this section if  
44 it has imposed a civil penalty for the same violation.  
45       **Sec. 5.** NRS 439A.120 is hereby amended to read as follows:  
46       439A.120 1. Except as otherwise provided in subsection 2, any  
47 person who violates any of the provisions of ~~this chapter~~ *NRS 439A.020*  
48 *to 439A.100, inclusive*, is liable to the state for a civil penalty of:



1 (a) Where the provision violated governs the licensing of a project  
2 which is required to be approved pursuant to NRS 439A.100, not more  
3 than 10 percent of the proposed expenditure for the project.

4 (b) Where any other provision is violated, not more than \$20,000 for  
5 each violation.

6 2. The department shall not impose a penalty under this section if it  
7 applies for injunctive relief to prevent the same violation.

8 **Sec. 6.** NRS 449.060 is hereby amended to read as follows:

9 449.060 1. Each license issued pursuant to NRS 449.001 to 449.240,  
10 inclusive, expires on December 31 following its issuance and is renewable  
11 for 1 year upon reapplication and payment of the fee provided in NRS  
12 449.040 and 449.050 , unless the health division finds, after an  
13 investigation, that the facility has not:

14 (a) Satisfactorily complied with the provisions of NRS 449.001 to  
15 449.240, inclusive, or the standards and regulations adopted by the board;

16 (b) Obtained ~~the approval of the director of the department of human~~  
17 ~~resources before undertaking a project, if such approval is~~ *any approval*  
18 *required by NRS 439A.100 ~~or~~ or an ordinance adopted pursuant to*  
19 *section 1 of this act;* or

20 (c) Conformed to all applicable local zoning regulations.

21 2. Each reapplication for an agency to provide nursing in the home, a  
22 residential facility for intermediate care, a facility for skilled nursing or a  
23 residential facility for groups must include, without limitation, a statement  
24 that the facility or agency is in compliance with the provisions of NRS  
25 449.173 to 449.188, inclusive.

26 **Sec. 7.** NRS 449.080 is hereby amended to read as follows:

27 449.080 1. If, after investigation, the health division finds that the:

28 (a) Applicant is in full compliance with the provisions of NRS 449.001  
29 to 449.240, inclusive;

30 (b) Applicant is in substantial compliance with the standards and  
31 regulations adopted by the board;

32 (c) Applicant, if he has undertaken a project for which approval is  
33 required pursuant to NRS 439A.100 ~~or~~ *or by an ordinance adopted*  
34 *pursuant to section 1 of this act,* has obtained ~~the approval of the director~~  
35 ~~of the department of human resources;~~ *that approval;* and

36 (d) Facility conforms to the applicable zoning regulations,  
37 the division shall issue the license to the applicant.

38 2. A license applies only to the person to whom it is issued, is valid  
39 only for the premises described in the license and is not transferable.

40 **Sec. 8.** NRS 449.087 is hereby amended to read as follows:

41 449.087 1. A licensee must obtain the approval of the health division  
42 to amend his license to operate a facility before the addition of any of the  
43 following services:

44 (a) The intensive care of newborn babies.

45 (b) The treatment of burns.

46 (c) The transplant of organs.

47 (d) The performance of open-heart surgery.

48 (e) A center for the treatment of trauma.



\* S B 3 2 8 \*

1       2. The health division shall approve an application to amend a license  
2 to allow a facility to provide any of the services described in subsection 1 if  
3 the applicant satisfies the requirements contained in NRS 449.080. The  
4 health division may revoke its approval if the licensee fails to maintain  
5 substantial compliance with standards approved by the board for the  
6 provision of such services, or with any conditions included in ~~the~~ *any*  
7 *applicable* written approval ~~of the director~~ issued pursuant to the  
8 provisions of NRS 439A.100 ~~or~~ *or in accordance with an ordinance*  
9 *adopted pursuant to section 1 of this act.*

10       3. The board shall consider standards adopted by appropriate national  
11 organizations as a guide for adopting standards for the approval of the  
12 provision of services pursuant to this section.

13       **Sec. 9.** NRS 449.160 is hereby amended to read as follows:  
14       449.160 The health division may deny an application for a license or  
15 may suspend or revoke any license issued under the provisions of NRS  
16 449.001 to 449.240, inclusive, upon any of the following grounds:  
17       1. Violation by the applicant or the licensee of any of the provisions of  
18 NRS 439B.410, 449.001 to 449.245, inclusive, or of any other law of this  
19 state or of the standards, rules and regulations adopted thereunder.  
20       2. Aiding, abetting or permitting the commission of any illegal act.  
21       3. Conduct inimical to the public health, morals, welfare and safety of  
22 the people of the State of Nevada in the maintenance and operation of the  
23 premises for which a license is issued.  
24       4. Conduct or practice detrimental to the health or safety of the  
25 occupants or employees of the facility.  
26       5. Failure of the applicant to obtain *any* written approval ~~from the~~  
27 ~~director of the department of human resources as~~ required by NRS  
28 439A.100 *or an ordinance adopted pursuant to section 1 of this act* or as  
29 provided in any regulation adopted pursuant to this chapter, if such  
30 approval is required.

31       **Sec. 10.** As soon as practicable, but in no event later than July 1,  
32 2002, the department of human resources and the state board of health shall  
33 repeal or amend in such a manner as is appropriate to carry out the  
34 amendatory provisions of this act, the provisions of any regulations  
35 respectively adopted by the department of human resources and the state  
36 board of health before July 1, 2001, to carry out the provisions of Nevada  
37 Revised Statutes that are amended by this act.

38       **Sec. 11.** This act becomes effective on July 1, 2001.

