

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.

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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 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; requiring 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. The board of county commissioners of a county whose population***
4 ***is 50,000 or more but less than 100,000 shall adopt an ordinance which,***
5 ***except as otherwise provided in this section:***
6 ***(a) Prohibits any person from undertaking any proposed expenditure***
7 ***for new construction in the county by or on behalf of a health facility in***
8 ***excess of \$2,000,000, which under generally accepted accounting***
9 ***principles consistently applied is a capital expenditure, without first***
10 ***applying for and obtaining the written approval of the board. The health***
11 ***division of the department shall not issue a new license or alter an***
12 ***existing license for such a project in the county unless the board has***
13 ***issued that approval.***



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- 1 (b) Establishes fees to be collected from persons who submit such
2 applications to the board. The amounts of the fees must be based upon
3 the costs of examining and acting upon the applications.
- 4 2. No ordinance adopted pursuant to the provisions of subsection 1
5 may apply:
- 6 (a) To any capital expenditure for:
- 7 (1) The acquisition of land;
- 8 (2) The construction of a facility for parking;
- 9 (3) The maintenance of a health facility;
- 10 (4) The renovation of a health facility to comply with standards for
11 safety, licensure, certification or accreditation;
- 12 (5) The installation of a system to conserve energy;
- 13 (6) The installation of a system for data processing or
14 communication; or
- 15 (7) Any other project which, in the opinion of the board, does not
16 relate directly to the provision of any health service; or
- 17 (b) To any project for the development of a health facility that has
18 received legislative approval and authorization.
- 19 Upon determining that a project satisfies the requirements for an
20 exemption pursuant to this subsection, the board shall issue a certificate
21 which states that the project is exempt from the requirements of an
22 ordinance adopted pursuant to this section.
- 23 3. In reviewing an application for approval, the board shall:
- 24 (a) Comparatively assess applications for similar projects affecting the
25 same geographic area;
- 26 (b) Cause the preparation of and consider a written assessment of the
27 effect of the project on the community and the existing system for the
28 delivery of health services in the area to be served by the project,
29 including, without limitation, the effect of the project on the financial
30 resources of and the availability of health care personnel to any hospitals
31 and other providers of health services in that area;
- 32 (c) Review and consider any assessments provided by local hospitals
33 regarding the effect of the project on:
- 34 (1) The quality of health services; and
- 35 (2) The financial resources of and the availability of health care
36 personnel to the existing system for the delivery of health
37 services,
- 38 in the area to be served by the project; and
- 39 (d) Base its decision on criteria which the board shall establish by
40 ordinance. The criteria must be at least as comprehensive and stringent
41 as the regulations adopted by the department to carry out the provisions
42 of NRS 439A.100 and include:
- 43 (1) The need for and the appropriateness of the project in the area
44 to be served;
- 45 (2) The financial feasibility of the project;
- 46 (3) The effect of the project on the cost of health care;
- 47 (4) The extent to which the applicant is committed to serving
48 medically indigent and uninsured patients in the area to be served; and



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1 (5) *The extent to which the project is consistent with the purposes*
2 *set forth in NRS 439A.020 and the priorities set forth in NRS 439A.081.*

3 4. *The board may by ordinance require additional approval for a*
4 *proposed change to a project which has previously been approved if the*
5 *proposal would result in a change in the location of the project or a*
6 *substantial increase in the cost of the project.*

7 5. *The decision of the board is a final decision for the purposes of*
8 *judicial review.*

9 **Sec. 2.** NRS 439A.081 is hereby amended to read as follows:

10 439A.081 1. The department is the agency of the State of Nevada for
11 health planning and development, and shall carry out the state
12 administrative program and perform the functions of health planning and
13 development for the state in accordance with the following priorities:

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

16 (b) Providing for the adequate supply and distribution of health
17 resources;

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

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

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

24 (a) Delegate the duties of the director and the department pursuant to
25 ~~this chapter~~ *those provisions* to any of the divisions of the department;

26 (b) Hire employees in the classified service;

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

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

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

34 4. In developing and revising any state plan for health planning and
35 development, the department shall consider, among other things, the
36 amount of money available from the Federal Government for health
37 planning and development and the conditions attached to the acceptance of
38 that money, and the limitations of legislative appropriations for health
39 planning and development.

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

41 439A.100 1. Except as otherwise provided in this section, in a
42 county whose population is less than ~~100,000,~~ *50,000*, no person may
43 undertake any proposed expenditure for new construction by or on behalf
44 of a health facility in excess of the greater of \$2,000,000 or such an amount
45 as the department may specify by regulation, which under generally
46 accepted accounting principles consistently applied is a capital
47 expenditure, without first applying for and obtaining the written approval
48 of the director. The health division of the department ~~of human resources~~



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1 shall not issue a new license or alter an existing license for such a project
2 unless the director has issued such an approval.

3 2. The provisions of subsection 1 do not apply to:

4 (a) Any capital expenditure for:

5 (1) The acquisition of land;

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

7 (3) The maintenance of a health facility;

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

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

11 (6) The installation of a system for data processing or
12 communication; or

13 (7) Any other project which, in the opinion of the director, does not
14 relate directly to the provision of any health service; or

15 (b) Any project for the development of a health facility that has received
16 legislative approval and authorization.

17 Upon determining that a project satisfies the requirements for an exemption
18 pursuant to this subsection, the director shall issue a certificate which states
19 that the project is exempt from the requirements of this section.

20 3. In reviewing an application for approval, the director shall:

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

23 (b) Base his decision on criteria established by the director by
24 regulation. The criteria must include:

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

27 (2) The financial feasibility of the project;

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

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

31 4. The department may by regulation require additional approval for a
32 proposed change to a project which has previously been approved if the
33 proposal would result in a change in the location of the project or a
34 substantial increase in the cost of the project.

35 5. The decision of the director is a final decision for the purposes of
36 judicial review.

37 **Sec. 4.** NRS 439A.110 is hereby amended to read as follows:

38 439A.110 1. Except as *otherwise* provided in subsection 2, the
39 department may apply to any court of competent jurisdiction to enjoin any
40 person, state agency or local governmental agency which has engaged in or
41 is about to engage in any act which violates any provision of ~~this chapter~~
42 *NRS 439A.020 to 439A.100, inclusive*, or the regulations adopted pursuant
43 thereto. Such *an* injunction may be issued without proof of actual damage
44 sustained by any person.

45 2. The department shall not seek injunctive relief under this section if
46 it has imposed a civil penalty for the same violation.



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1 **Sec. 5.** NRS 439A.120 is hereby amended to read as follows:
2 439A.120 1. Except as otherwise provided in subsection 2, any
3 person who violates any of the provisions of ~~this chapter~~ *NRS 439A.020*
4 *to 439A.100, inclusive*, is liable to the state for a civil penalty of:

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

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

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

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

13 449.060 1. Each license issued pursuant to NRS 449.001 to 449.240,
14 inclusive, expires on December 31 following its issuance and is renewable
15 for 1 year upon reapplication and payment of the fee provided in NRS
16 449.040 and 449.050 , unless the health division finds, after an
17 investigation, that the facility has not:

18 (a) Satisfactorily complied with the provisions of NRS 449.001 to
19 449.240, inclusive, or the standards and regulations adopted by the board;

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

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

25 2. Each reapplication for an agency to provide nursing in the home, a
26 residential facility for intermediate care, a facility for skilled nursing or a
27 residential facility for groups must include, without limitation, a statement
28 that the facility or agency is in compliance with the provisions of NRS
29 449.173 to 449.188, inclusive.

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

31 449.080 1. If, after investigation, the health division finds that the:

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

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

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

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

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

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

45 449.087 1. A licensee must obtain the approval of the health division
46 to amend his license to operate a facility before the addition of any of the
47 following services:

48 (a) The intensive care of newborn babies.

49 (b) The treatment of burns.



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- 1 (c) The transplant of organs.
- 2 (d) The performance of open-heart surgery.
- 3 (e) A center for the treatment of trauma.

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

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

16 **Sec. 9.** NRS 449.160 is hereby amended to read as follows:

17 449.160 The health division may deny an application for a license or
18 may suspend or revoke any license issued under the provisions of NRS
19 449.001 to 449.240, inclusive, upon any of the following grounds:

20 1. Violation by the applicant or the licensee of any of the provisions of
21 NRS 439B.410, 449.001 to 449.245, inclusive, or of any other law of this
22 state or of the standards, rules and regulations adopted thereunder.

23 2. Aiding, abetting or permitting the commission of any illegal act.

24 3. Conduct inimical to the public health, morals, welfare and safety of
25 the people of the State of Nevada in the maintenance and operation of the
26 premises for which a license is issued.

27 4. Conduct or practice detrimental to the health or safety of the
28 occupants or employees of the facility.

29 5. Failure of the applicant to obtain *any* written approval ~~from the~~
30 ~~director of the department of human resources as~~ required by NRS
31 439A.100 *or an ordinance adopted pursuant to section 1 of this act* or as
32 provided in any regulation adopted pursuant to this chapter, if such
33 approval is required.

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

41 **Sec. 11.** The board of county commissioners of a county whose
42 population is 50,000 or more but less than 100,000 shall submit a report of
43 its actions taken pursuant to section 1 of this act:

44 1. Each calendar quarter to the legislative committee on health
45 care; and

46 2. On or before:

47 (a) January 1, 2003, to the director of the legislative counsel bureau for
48 transmittal to the 72nd session of the legislature; and



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1 (b) January 1, 2005, to the director of the legislative counsel bureau for
2 transmittal to the 73rd session of the legislature.

3 **Sec. 12.** The board of county commissioners of a county whose
4 population is 50,000 or more but less than 100,000 shall cause any
5 ordinance it adopts pursuant to section 1 of this act to expire by limitation
6 on June 30, 2005.

7 **Sec. 13.** 1. This act becomes effective:

8 (a) Upon passage and approval for the purposes of adopting any
9 ordinances and regulations and conducting any preliminary activities
10 necessary to carry out the provisions of this act in a timely manner; and

11 (b) On July 1, 2001, for all other purposes.

12 2. Sections 1 to 11, inclusive, of this act expire by limitation on
13 June 30, 2005.

