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ASSEMBLY BILL NO. 275—ASSEMBLYMAN CARPENTER

MARCH 21, 2005

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Referred to Committee on Government Affairs

**SUMMARY**—Prohibits involvement of State Public Works Board in certain activities of local governments. (BDR 28-614)

**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.

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**AN ACT** relating to public works; prohibiting the involvement of the State Public Works Board in certain activities of local governments; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law creates the State Public Works Board and defines the powers and duties of the Board. (NRS 341.020, 341.145) The Board's powers include the final authority to approve the architecture of all state buildings and to accept the construction or repair of each state building or structure, including filing the notice of completion and certificate of occupancy for the building or structure. The Board may also solicit and award bids, enter into contracts, supervise and inspect construction and major repairs and authorize change orders before and during construction. (NRS 341.145) Existing law requires the Board to advise and cooperate with municipal, county and other local planning commissions within the State to promote coordination between the State and the local plans and developments. (NRS 341.211)

This bill prohibits the State Public Works Board from participating, in any manner, in certain building projects of a local government unless 25 percent or more of the costs of the project as a whole are paid from money appropriated by the State. This prohibition includes participation by the Board in the planning, design, contracting, construction, supervision, approval, improvement, repair or inspection of a local governmental building, project or structure. For the purposes of this bill, "local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments.



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

**Section 1.** NRS 341.145 is hereby amended to read as follows:

341.145 ~~{The Board:}~~

1. *Except as otherwise provided in subsection 2, the Board:*

(a) Has final authority to approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping.

~~{2-}~~ (b) Shall determine whether any rebates are available from a public utility for installing devices in any state building which are designed to decrease the use of energy in the building. If such a rebate is available, the Board shall apply for the rebate.

~~{3-}~~ (c) Shall solicit bids for and let all contracts for new construction or major repairs.

~~{4-}~~ (d) May negotiate with the lowest responsible and responsive bidder on any contract to obtain a revised bid if:

~~{a-}~~ (1) The bid is less than the appropriation made by the Legislature for that building project; and

~~{b-}~~ (2) The bid does not exceed the relevant budget item for that building project as established by the Board by more than 10 percent.

~~{5-}~~ (e) May reject any or all bids.

~~{6-}~~ (f) After the contract is let, shall supervise and inspect construction and major repairs. The cost of supervision and inspection must be financed from the capital construction program approved by the Legislature.

~~{7-}~~ (g) Shall obtain approval from the Interim Finance Committee when the Legislature is not in regular or special session, or from the Legislature by concurrent resolution when the Legislature is in regular or special session, for any change in the scope of the design or construction of a project as that project was authorized by the Legislature. The Board shall adopt by regulation criteria for determining whether a change in the scope of the design or construction of a project requires such approval.

~~{8-}~~ (h) May authorize change orders, before or during construction:

~~{a-}~~ (1) In any amount, where the change represents a reduction in the total awarded contract price.

~~{b-}~~ (2) Except as otherwise provided in ~~{paragraph (e),}~~ *subparagraph (3)*, not to exceed in the aggregate 10 percent of the total awarded contract price, where the change represents an increase in that price.



~~[(e)]~~ (3) In any amount, where the total awarded contract price is less than \$10,000 and the change represents an increase not exceeding the amount of the total awarded contract price.

~~[(9)]~~ (i) Shall specify in any contract with a design professional the period within which the design professional must prepare and submit to the Board a change order that has been authorized by the design professional. As used in this subsection, "design professional" means a person with a professional license or certificate issued pursuant to chapter 623, 623A or 625 of NRS.

~~[(10)]~~ (j) Has final authority to accept each building or structure, or any portion thereof, on property of the State or held in trust for any division of the State Government as completed or to require necessary alterations to conform to the contract or to codes adopted by the Board, and to file the notice of completion and certificate of occupancy for the building or structure.

*2. The Board shall not, in any manner, participate in the planning, design, contracting, construction, supervision, acceptance, approval, improvement, repair or inspection of or for a building, project or structure for a local government, unless 25 percent or more of the costs of the building, project or structure as a whole are paid from money appropriated by this State. As used in this subsection, "local government" has the meaning ascribed to it in NRS 338.010.*

**Sec. 2.** NRS 341.211 is hereby amended to read as follows:

341.211 The Board shall:

1. Cooperate with other departments and agencies of the State in their planning efforts.

2. ~~[(Advise)]~~ *Except as otherwise provided in NRS 341.145, advise* and cooperate with municipal, county and other local planning commissions within the State to promote coordination between the State and the local plans and developments.

3. Cooperate with the Nevada Arts Council and the Buildings and Grounds Division of the Department of Administration to plan the potential purchase and placement of works of art inside or on the grounds surrounding a state building.

**Sec. 3.** NRS 387.3335 is hereby amended to read as follows:

387.3335 1. The board of trustees of a school district may apply to the Director of the Department of Administration for a grant of money from the Fund created pursuant to NRS 387.333 on a form provided by the Director of the Department of Administration. The application must be accompanied by proof that the following emergency conditions exist within the school district:

(a) The assessed valuation of the taxable property in the county in which the school district is located is declining and all other



resources available to the school district for financing capital improvements are diminishing;

(b) The combined ad valorem tax rate of the county is at the limit imposed by NRS 361.453; and

(c) At least:

(1) One building that is located on the grounds of a school within the school district has been condemned;

(2) One of the facilities that is located on the grounds of a school within the school district is unsuitable for use as a result of:

(I) Structural defects;

(II) Barriers to accessibility; or

(III) Hazards to life, health or safety, including, without limitation, environmental hazards and the operation of the facility in an unsafe manner; or

(3) One of the facilities that is located on the grounds of a school within the school district is in such a condition that the cost of renovating the facility would exceed 40 percent of the cost of constructing a new facility.

2. *Except as otherwise provided in subsection 3:*

(a) Upon receipt of an application submitted pursuant to subsection 1, the Director of the Department of Administration shall forward the application to the:

~~[(a)]~~ (1) Department of Taxation to determine whether ~~for not:~~

~~—(1)]~~:

(I) The application satisfies the showing of proof required pursuant to paragraphs (a) and (b) of subsection 1; and

~~[(2)]~~ (II) The board of county commissioners in the county in which the school district is located has imposed a tax of more than one-eighth of 1 percent pursuant to NRS 377B.100;

~~[(b)]~~ (2) State Public Works Board to determine whether the application satisfies the showing of proof required pursuant to paragraph (c) of subsection 1; and

~~[(c)]~~ (3) Department of Education for informational purposes.

~~[(3)]~~ (b) The Department of Taxation and the State Public Works Board shall submit written statements of their determinations pursuant to ~~[subsection 2]~~ *paragraph (a)* regarding an application to the Director of the Department of Administration. Upon receipt of such statements, the Director shall submit the application accompanied by the written statements from the Department of Taxation and State Public Works Board to the State Board of Examiners for approval.

3. *If the provisions of NRS 341.145 prohibit the participation of the State Public Works Board:*

(a) *The application otherwise required to be forwarded to the State Public Works Board pursuant to subparagraph (2) of*



1 *paragraph (a) of subsection 2 must instead be forwarded to a*  
2 *registered architect or licensed professional engineer selected by*  
3 *the board of trustees of the school district that is applying for the*  
4 *grant;*

5 *(b) The registered architect or licensed professional engineer*  
6 *shall determine whether the application satisfies the showing of*  
7 *proof required pursuant to paragraph (c) of subsection 1; and*

8 *(c) The registered architect or licensed professional engineer*  
9 *shall submit to the Director of the Department of Administration a*  
10 *written statement of his determination pursuant to paragraph (b).*

11 *↳ Upon receipt of such statement, the Director shall submit the*  
12 *application accompanied by the written statements from the*  
13 *Department of Taxation and the architect or engineer to the State*  
14 *Board of Examiners for approval.*

15 4. The Director of the Department of Administration shall  
16 make grants from the Fund created pursuant to NRS 387.333 based  
17 upon the need of each school district whose application is approved  
18 by the State Board of Examiners.

19 5. The Director of the Department of Administration shall  
20 adopt regulations that prescribe the annual deadline for submission  
21 of an application to the Director of the Department of  
22 Administration by a school district that desires to receive a grant of  
23 money from the Fund.

24 **Sec. 4.** NRS 393.110 is hereby amended to read as follows:

25 393.110 1. Each school district shall, in the design,  
26 construction and alteration of school buildings and facilities comply  
27 with the applicable requirements of the Americans with Disabilities  
28 Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations  
29 adopted pursuant thereto, including, without limitation, the  
30 Americans with Disabilities Act Accessibility Guidelines for  
31 Buildings and Facilities set forth in Appendix A of Part 36 of Title  
32 28 of the Code of Federal Regulations. The requirements of this  
33 subsection are not satisfied if a school district complies solely with  
34 the Uniform Federal Accessibility Standards set forth in Appendix  
35 A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

36 2. Except as otherwise provided in subsection 3:

37 (a) Unless standard plans, designs and specifications are to be  
38 used as provided in NRS 385.125, before letting any contract or  
39 contracts for the erection of any new school building, the board of  
40 trustees of a school district shall submit plans, designs and  
41 specifications therefor to, and obtain the written approval of the  
42 plans, designs and specifications by, the State Public Works Board.  
43 The State Public Works Board shall review the plans, designs and  
44 specifications and make any recommendations as expeditiously as  
45 practicable. The State Public Works Board is authorized to charge



1 and collect, and the board of trustees is authorized to pay, a  
2 reasonable fee for the payment of any costs incurred by the State  
3 Public Works Board in securing the approval of qualified architects  
4 or engineers of the plans, designs and specifications submitted by  
5 the board of trustees in compliance with the provisions of this  
6 paragraph.

7 (b) Before letting any contract or contracts for any addition to or  
8 alteration of an existing school building which involves structural  
9 systems, or exiting, sanitary or fire protection facilities, the board of  
10 trustees of a school district shall submit plans, designs and  
11 specifications therefor to, and obtain the written approval of the  
12 plans, designs and specifications by, the State Public Works Board.  
13 The State Public Works Board shall review the plans, designs and  
14 specifications and make any recommendations as expeditiously as  
15 practicable. The State Public Works Board is authorized to charge  
16 and collect, and the board of trustees is authorized to pay, a  
17 reasonable fee for the payment of any costs incurred by the State  
18 Public Works Board in securing the approval of qualified architects  
19 or engineers of the plans, designs and specifications submitted by  
20 the board of trustees in compliance with the provisions of this  
21 paragraph.

22 ➡ The State Public Works Board shall verify that all plans, designs  
23 and specifications that it reviews pursuant to this section comply  
24 with all applicable requirements of the Americans with Disabilities  
25 Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations  
26 adopted pursuant thereto, including, without limitation, the  
27 Americans with Disabilities Act Accessibility Guidelines for  
28 Buildings and Facilities set forth in Appendix A of Part 36 of Title  
29 28 of the Code of Federal Regulations. The requirements of this  
30 subsection are not satisfied if the plans, designs and specifications  
31 comply solely with the Uniform Federal Accessibility Standards set  
32 forth in Appendix A of Part 101-19.6 of Title 41 of the Code of  
33 Federal Regulations.

34 3. The State Public Works Board :

35 (a) *Except as otherwise provided in paragraph (b)*, may enter  
36 into an agreement with the appropriate building department of a  
37 county or city to review plans, designs and specifications of a school  
38 district pursuant to subsection 2.

39 (b) *Shall enter into an agreement with the appropriate*  
40 *building department of a county or city to review plans, designs*  
41 *and specifications of a school district pursuant to subsection 2, if*  
42 *the State Public Works Board is prohibited from reviewing those*  
43 *plans, designs and specifications pursuant to NRS 341.145.*

44 4. If the State Public Works Board enters into ~~[such]~~ an  
45 agreement ~~[ ]~~ *pursuant to subsection 3*, the board of trustees of the



1 school district shall submit a copy of its plans, designs and  
2 specifications for any project to which subsection 2 applies to the  
3 building department before commencement of the project for the  
4 approval of the building department. The building department shall  
5 review the plans, designs and specifications and provide responsive  
6 comment as expeditiously as practicable to verify that the plans,  
7 designs and specifications comply with all applicable requirements  
8 of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101  
9 et seq., inclusive, and the regulations adopted pursuant thereto,  
10 including, without limitation, the Americans with Disabilities Act  
11 Accessibility Guidelines for Buildings and Facilities set forth in  
12 Appendix A of Part 36 of Title 28 of the Code of Federal  
13 Regulations. The building department may charge and collect a  
14 reasonable fee from the board of trustees of the school district for  
15 the payment of any costs incurred by the building department in  
16 reviewing the plans, designs and specifications. A permit for  
17 construction must not be issued without the approval of the building  
18 department pursuant to this subsection. The requirements of this  
19 subsection are not satisfied if the plans, designs and specifications  
20 comply solely with the Uniform Federal Accessibility Standards set  
21 forth in Appendix A of Part 101-19.6 of Title 41 of the Code of  
22 Federal Regulations.

23 ~~[4.]~~ 5. No contract for any of the purposes specified in  
24 subsection 1 made by a board of trustees of a school district contrary  
25 to the provisions of this section is valid, nor shall any public money  
26 be paid for erecting, adding to or altering any school building in  
27 contravention of this section.

28 **Sec. 5.** This act becomes effective on July 1, 2005.



