

SENATE BILL NO. 82—COMMITTEE ON
HUMAN RESOURCES AND EDUCATION

(ON BEHALF OF THE COMSTOCK HISTORIC DISTRICT COMMISSION)

FEBRUARY 17, 2005

Referred to Committee on Human Resources and Education

SUMMARY—Revises provisions governing Comstock Historic District Commission. (BDR 33-399)

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 the Comstock Historic District Commission; authorizing staff of the Commission to issue certificates of appropriateness in certain situations; revising provisions governing notice of hearings of the Commission; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Comstock Historic District Commission to establish a historic district in portions of Storey and Lyon counties. (NRS 384.100) Existing law prohibits a structure located in the historic district from being erected, demolished, moved or changed in any manner unless an application for a certificate of appropriateness as to the architectural style, general design and general arrangement of the exterior of the structure has been submitted to and approved by the Commission. (NRS 384.030, 384.110)

This bill authorizes the staff of the Commission to approve and issue certificates of appropriateness for specific categories and types of applications if those applications comply substantially with statutory requirements. If an application does not fall within one of the categories or types of applications that the staff is authorized to approve or if the staff of the Commission determines that a particular project is inappropriate, the staff must forward the application to the Commission for a hearing and determination.

Existing law requires the Commission to mail notices of public hearings at least 10 days before the date of the hearing. (NRS 384.120) The Open Meeting Law, which provides general requirements for meetings of public bodies, requires that



notice of a meeting be given at least 3 working days before the meeting, except in an emergency. (NRS 241.020)

This bill requires that notice of a public hearing of the Commission be given in accordance with the notice requirements of the Open Meeting Law, thereby shortening the period by which the Commission must provide notice of a hearing.

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

Section 1. Chapter 384 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Commission may authorize its staff to issue certificates of appropriateness on behalf of the Commission for specific categories and types of applications if those applications comply substantially with the requirements and public policy set forth in NRS 384.010 to 384.210, inclusive.

2. If an application for a certificate of appropriateness submitted to the Commission:

(a) Does not fall within a category or type for which the Commission has authorized its staff to issue certificates of appropriateness pursuant to subsection 1; or

(b) Is determined by the staff of the Commission as not being in substantial compliance with the requirements and public policy set forth in NRS 384.010 to 384.210, inclusive,

↳ the staff shall forward the application to the Commission for a hearing and determination by the Commission pursuant to NRS 384.120 and 384.130.

3. If the staff forwards an application to the Commission pursuant to subsection 2 because the application does not comply substantially with the requirements and public policy set forth in NRS 384.010 to 384.210, inclusive, the staff shall include a statement of the reasons for its determination.

Sec. 2. NRS 384.030 is hereby amended to read as follows:

384.030 As used in NRS 384.010 to 384.210, inclusive , **and section 1 of this act:**

1. "Commission" means the Comstock Historic District Commission.

2. "Exterior architectural features" means the architectural style, general design and general arrangement of the exterior of a structure, including the kind and texture of the building material, the type and style of all windows, doors, light fixtures and signs, color, and other appurtenant fixtures.

3. "Historic district" means an area within which structures and places of historical interest are under the protection of the Commission.



1 4. "Structure" means any building for whatever purpose
2 constructed or used, house trailer as defined in NRS 484.069,
3 mobile home as defined in NRS 484.0795, stone wall, fence, light
4 fixture, step, paving, advertising sign, bill poster and any fixture
5 appurtenant thereto, but does not include structures or signs of a
6 temporary nature such as those erected for celebrations or parades.

7 **Sec. 3.** NRS 384.110 is hereby amended to read as follows:

8 384.110 1. No structure may be erected, reconstructed,
9 altered, restored, moved or demolished within the historic district
10 until after an application for a certificate of appropriateness as to
11 exterior architectural features has been submitted to and approved
12 by the Commission ~~H~~, *or by its staff pursuant to section 1 of this*
13 *act.* The application for a certificate of appropriateness ~~shall~~ *must*
14 be in such form and accompanied by such plans, specifications and
15 other material as the Commission may from time to time prescribe.

16 2. In its deliberations under the provisions of NRS 384.010 to
17 384.210, inclusive, *and section 1 of this act*, the Commission *and*
18 *its staff* shall not consider interior arrangement or use ~~H~~ and shall
19 take no action under NRS 384.010 to 384.210, inclusive, *and*
20 *section 1 of this act*, except for the purpose of preventing the
21 erection, reconstruction, restoration, alteration, moving or razing of
22 buildings in the district obviously incongruous with the historic
23 aspects of the district.

24 3. The provisions of NRS 384.010 to 384.210, inclusive, *and*
25 *section 1 of this act* do not prevent:

26 (a) The ordinary maintenance or repair of any exterior
27 architectural feature in the historic district which does not involve a
28 change of design or material or the outward appearance thereof;

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

33 (c) The construction, reconstruction, alteration or demolition of
34 any such feature under a permit issued by a building inspector or
35 similar authority prior to the effective date of the establishment of
36 such district.

37 **Sec. 4.** NRS 384.120 is hereby amended to read as follows:

38 384.120 1. The Commission shall hold a public hearing upon
39 each application for a certificate of appropriateness *within 30 days*
40 *after the application has been filed with the Commission,*
41 *excluding Saturdays, Sundays and legal holidays,* unless ~~waived~~
42 :

43 (a) *The application is approved by the staff of the Commission*
44 *pursuant to section 1 of this act; and*



1 ***(b) The holding of a hearing is waived*** in writing by ~~{all~~
2 ~~persons entitled to notice thereof as provided in this section.~~

3 ~~2. Within 30 days after the filing of an application for a~~
4 ~~certificate of appropriateness, Saturdays, Sundays and legal holidays~~
5 ~~excluded, the Commission shall determine the estates and property~~
6 ~~deemed by it to be materially affected by such application and,~~
7 ~~unless a public hearing on such application is waived by all persons~~
8 ~~entitled to notice, shall forthwith cause notice of such application~~
9 ~~and of] the~~ ***applicant or his designated representative.***

10 ***2. The Commission shall cause notice of a*** hearing to be held
11 ~~{thereon} on an application pursuant to subsection 1~~ to be given
12 ~~{by regular mail, postage prepaid, to the applicant, to the} in~~
13 ***accordance with NRS 241.020 to:***

14 ***(a) The applicant;***

15 ***(b) The*** owners of all ~~{such estates or property}~~ ***properties***
16 ***deemed by the Commission to be materially affected by the***
17 ***application*** as they appear on the most recent tax list ~~{, and to any} ;~~
18 ***and***

19 ***(c) Any*** person who has filed a written request for notice of
20 hearings during the preceding calendar year. ~~{The notices shall be~~
21 ~~mailed at least 10 days prior to the date set for the hearing.}~~

22 3. The Commission may, if it determines the matter to be of
23 sufficient public interest, give an additional notice of the time and
24 place of the hearing by publication in the form of a legal
25 advertisement in a newspaper having a substantial circulation in the
26 district at least 7 days before such hearing.

27 **Sec. 5.** NRS 384.130 is hereby amended to read as follows:

28 384.130 As soon as practicable after ~~{such} a~~ public hearing ~~{,~~
29 ~~or the waiver thereof,}~~ ***held pursuant to NRS 384.120,*** but not more
30 than 60 days, Saturdays, Sundays and legal holidays excluded, after
31 the filing of the application for the certificate of appropriateness, or
32 within such further time as the applicant may in writing allow, the
33 Commission shall determine:

34 1. That the proposed erection, construction, reconstruction,
35 restoration, alteration, moving or razing of the exterior architectural
36 feature involved will be appropriate to the preservation of the
37 historic district for the purposes of NRS 384.010 to 384.210,
38 inclusive ~~{,}~~ ***, and section 1 of this act;***

39 2. That, even though the proposed project may be
40 inappropriate, failure to issue a certificate would involve a
41 substantial hardship to the applicant because of conditions
42 especially affecting the structure involved, but not affecting the
43 historic district generally, and that a certificate could be issued
44 without substantial detriment to the public welfare or the purposes



1 of NRS 384.010 to 384.210, inclusive ~~H~~, and section 1 of this act;
2 or

3 3. That the proposed project is inappropriate.

4 **Sec. 6.** NRS 384.140 is hereby amended to read as follows:

5 384.140 1. In passing upon *the* appropriateness ~~H~~ of *an*
6 *application pursuant to NRS 384.130 or section 1 of this act*, the
7 Commission, and its staff shall consider, in addition to any other
8 pertinent factors:

9 (a) Historic and architectural value and significance;

10 (b) Architectural style;

11 (c) Location on the lot;

12 (d) Position of the structure in relation to the street or public
13 way and whether it is subject to public view from a public place;

14 (e) General design, arrangement, texture, material, color and
15 size of the exterior architectural features involved and the
16 relationship thereof to the exterior architectural features of other
17 structures in the immediate neighborhood; and

18 (f) The relationship of the exterior architectural features to well
19 recognized styles of early western architecture of the late 19th and
20 early 20th centuries.

21 2. A certificate of appropriateness may be refused for any
22 structure, the erection, reconstruction, restoration, alteration,
23 moving or razing of which, in the opinion of the Commission,
24 would be detrimental to the interest of the historic district or
25 incongruous with the historic aspects of the surroundings and the
26 historic environment of the district.

27 **Sec. 7.** NRS 384.150 is hereby amended to read as follows:

28 384.150 1. If, after a hearing held pursuant to NRS
29 384.120, the Commission determines that the proposed construction,
30 reconstruction, restoration, alteration, moving or razing of the
31 exterior architectural feature involved will be appropriate, or,
32 although inappropriate, that failure to issue a certificate would result
33 in hardship as provided in subsection 2 of NRS 384.130, or if the
34 Commission fails to make a determination within the time
35 prescribed in NRS 384.130, the Commission shall immediately
36 issue to the applicant a certificate of appropriateness.

37 2. The Commission may charge and collect a reasonable fee for
38 ~~issuing the certificate.~~ the issuance of a certificate of
39 appropriateness by the Commission pursuant to this section or by
40 its staff pursuant to section 1 of this act. If a fee is charged, 50
41 percent of the proceeds must be deposited in the State General Fund
42 for credit to the appropriate account for the Comstock Historic
43 District and 50 percent must be deposited in a nonreverting Account
44 for the Restoration of the Fourth Ward School in Virginia City,
45 which is hereby created. Money in the Account for the Restoration



1 of the Fourth Ward School may be expended only upon approval by
2 the Commission.

3 ~~[2-]~~ 3. In exercising the power to vary or modify strict
4 adherence to the provisions of NRS 384.010 to 384.210, inclusive,
5 **and section 1 of this act** or to interpret the meaning of NRS 384.010
6 to 384.210, inclusive, **and section 1 of this act** so as to relieve
7 hardship under the provisions of subsection 2 of NRS 384.130, the
8 Commission shall require any variance, modification or
9 interpretation to be in harmony with the general purpose and intent
10 of NRS 384.010 to 384.210, inclusive, **and section 1 of this act** so
11 that the general historical character of the District is conserved and
12 substantial justice done. In allowing variations, the Commission
13 may impose such reasonable and additional conditions as will, in its
14 judgment, better fulfill the purposes of NRS 384.010 to 384.210,
15 inclusive ~~+~~

16 ~~—3.—~~ **1, and section 1 of this act.**

17 4. If the Commission determines that a certificate of
18 appropriateness should not issue, it shall immediately set forth in its
19 records the reasons for the determination, and may include
20 recommendations respecting the proposed erection, construction,
21 restoration, alteration, moving or razing, and shall immediately
22 notify the applicant of the determination by transmitting to him an
23 attested copy of the reasons and recommendations, if any, as set
24 forth in the records of the Commission.

25 ~~[4-]~~ 5. The applicant may appeal a refusal of the Commission
26 to issue a certificate of appropriateness to the Board of Museums
27 and History within 30 days after its determination and the Board,
28 after a hearing on the matter, may:

29 (a) Approve the application with or without conditions by a
30 unanimous vote; or

31 (b) Deny the application.

32 ➔ If the Board approves the application, the Commission shall
33 immediately issue a certificate of appropriateness to the applicant.

34 **Sec. 8.** NRS 384.210 is hereby amended to read as follows:

35 384.210 1. Any person aggrieved by a determination of the
36 Commission, or of the Board of Museums and History made
37 pursuant to subsection ~~[4-]~~ 5 of NRS 384.150, may, within 30 days
38 after the making of the determination, appeal to the district court of
39 the county where the property in question is located.

40 2. The court may reverse the determination of the Commission
41 if it finds that the reasons given for the determination are
42 unsupported by the evidence or contrary to law. The proceeding in
43 the district court is limited to the record made before the
44 Commission.



1 **Sec. 9.** This act becomes effective on July 1, 2005.



