

ASSEMBLY BILL NO. 439—ASSEMBLYMEN
CONKLIN AND KIRKPATRICK

MARCH 19, 2007

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to developing and maintaining affordable housing. (BDR 22-1302)

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 affordable housing; requiring cities and counties to adopt certain measures to implement a housing plan that is included in a master plan; amending the definition of “affordable housing”; making various changes to the requirements for a master plan relating to affordable housing; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires planning commissions to adopt master plans and sets forth the requirements for master plans. In certain counties, master plans are required to include housing plans, which must include, in part, a plan for maintaining and developing affordable housing to meet the housing needs of the community. (NRS 278.150, 278.160)

Section 1 of this bill requires the governing body of a city or county, in implementing a plan for maintaining and developing affordable housing to meet the housing needs of the community, to adopt at least three of the following measures: (1) waiving or reducing impact fees and fees for the issuance of building permits; (2) selling land owned by the city or county to developers exclusively for the development of affordable housing at not more than 10 percent of its appraised value; (3) establishing a trust fund for affordable housing; or (4) establishing a process that expedites the approval of plans and specifications relating to maintaining and developing affordable housing. **Section 1** also: (1) requires cities and counties to report annually to the Housing Division of the Department of Business and Industry concerning how such measures assisted the city or county in maintaining and developing affordable housing; and (2) authorizes the Division to impose a penalty against a city or county that does not make adequate progress in maintaining and developing affordable housing. **Section 5** of this bill set forth the formula for determining the amount of any such penalty.



Existing law defines “affordable housing” to mean housing that is affordable for a family with a total gross income less than 110 percent of the median gross income for the county concerned, based upon estimates by the United States Department of Housing and Urban Development of the most current median gross family income for the county. **Section 2** of this bill amends the definition of “affordable housing” to mean housing that is affordable for a family with a total gross income that does not exceed 80 percent of the median gross income for the county concerned, based upon estimates by the United States Department of Housing and Urban Development of the most current median gross family income for the county.

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In carrying out a plan for maintaining and developing affordable housing to meet the housing needs of the community, which plan is included in a master plan pursuant to subparagraph (8) of paragraph (e) of subsection 1 of NRS 278.160, the governing body of a city or county must adopt at least three of the following measures:

(a) Waiving or reducing impact fees and fees for the issuance of building permits collected pursuant to NRS 278.580.

(b) Selling land owned by the city or county, as applicable, to developers exclusively for the development of affordable housing at not more than 10 percent of the appraised value of the land. Nothing in this paragraph authorizes a city or county to obtain land pursuant to the power of eminent domain for the purposes set forth in this paragraph.

(c) Establishing a trust fund for affordable housing that must be used for the acquisition, construction or rehabilitation of affordable housing.

(d) Establishing a process that expedites the approval of plans and specifications relating to maintaining and developing affordable housing.

2. On or before January 15 of each year, the governing body shall submit to the Housing Division of the Department of Business and Industry a report, in the form prescribed by the Division, of how the measures adopted pursuant to subsection 1 assisted the city or county in maintaining and developing affordable housing to meet the needs of the community for the preceding year.

3. On or before February 15 of each year, the Division shall determine, based on the report submitted pursuant to subsection 2, whether the city or county made adequate progress in maintaining



1 *and developing affordable housing to meet the housing needs of*
2 *the community. The Division shall establish criteria for*
3 *determining whether a city or county makes adequate progress in*
4 *maintaining and developing affordable housing to meet the*
5 *housing needs of the community.*

6 *4. If the Division determines pursuant to subsection 3 that a*
7 *city or county has not made adequate progress in maintaining and*
8 *developing affordable housing to meet the housing needs of the*
9 *community:*

10 *(a) On or before February 21, the Division shall notify the*
11 *governing body of the city or county and the Executive Director of*
12 *the Department of Taxation that the Division is imposing a penalty*
13 *against the city or county; and*

14 *(b) The Executive Director shall determine the amount of the*
15 *penalty pursuant to section 5 of this act.*

16 *5. The governing body of a city or county against whom a*
17 *penalty is imposed pursuant to subsection 4 may apply to the*
18 *Division for an amount from the Account for Low-Income*
19 *Housing created pursuant to NRS 319.500 that does not exceed*
20 *the amount of the penalty determined by the Executive Director*
21 *pursuant to section 5 of this act. Any money that the governing*
22 *body receives pursuant to this subsection must be used exclusively*
23 *for the purpose of maintaining and developing affordable housing*
24 *in the community.*

25 **Sec. 2.** NRS 278.0105 is hereby amended to read as follows:

26 278.0105 "Affordable housing" means housing affordable for a
27 family with a total gross income ~~less than 110~~ *that does not*
28 *exceed 80* percent of the median gross income for the county
29 concerned based upon the estimates of the United States Department
30 of Housing and Urban Development of the most current median
31 gross family income for the county.

32 **Sec. 3.** NRS 278.160 is hereby amended to read as follows:

33 278.160 1. Except as otherwise provided in subsection 4 of
34 NRS 278.150 and subsection 3 of NRS 278.170, the master plan,
35 with the accompanying charts, drawings, diagrams, schedules and
36 reports, may include such of the following subject matter or portions
37 thereof as are appropriate to the city, county or region, and as may
38 be made the basis for the physical development thereof:

39 (a) Community design. Standards and principles governing the
40 subdivision of land and suggestive patterns for community design
41 and development.

42 (b) Conservation plan. For the conservation, development and
43 utilization of natural resources, including, without limitation, water
44 and its hydraulic force, underground water, water supply, solar or
45 wind energy, forests, soils, rivers and other waters, harbors,



1 fisheries, wildlife, minerals and other natural resources. The plan
2 must also cover the reclamation of land and waters, flood control,
3 prevention and control of the pollution of streams and other waters,
4 regulation of the use of land in stream channels and other areas
5 required for the accomplishment of the conservation plan,
6 prevention, control and correction of the erosion of soils through
7 proper clearing, grading and landscaping, beaches and shores, and
8 protection of watersheds. The plan must also indicate the maximum
9 tolerable level of air pollution.

10 (c) Economic plan. Showing recommended schedules for the
11 allocation and expenditure of public money in order to provide for
12 the economical and timely execution of the various components of
13 the plan.

14 (d) Historical properties preservation plan. An inventory of
15 significant historical, archaeological and architectural properties as
16 defined by a city, county or region, and a statement of methods to
17 encourage the preservation of those properties.

18 (e) Housing plan. The housing plan must include, without
19 limitation:

20 (1) An inventory of housing conditions, needs and plans and
21 procedures for improving housing standards and for providing
22 adequate housing ~~{ }~~ *to individuals and families in the community,*
23 *regardless of income level.*

24 (2) An inventory of ~~{affordable}~~ *existing* housing in the
25 community ~~{ }~~ *, including, without limitation, housing that is*
26 *available to rent or own, housing that is subsidized either directly*
27 *or indirectly by this State, an agency or political subdivision of this*
28 *State, or the Federal Government or an agency of the Federal*
29 *Government, and housing that is accessible to persons with*
30 *disabilities.*

31 (3) An analysis of *projected growth and* the demographic
32 characteristics of the community.

33 (4) A determination of the present and prospective need for
34 affordable housing in the community.

35 (5) An analysis of any impediments to the development of
36 affordable housing and the development of policies to mitigate those
37 impediments.

38 (6) An analysis of the characteristics of the land that is ~~{the~~
39 ~~most appropriate for the construction of affordable housing.}~~
40 *suitable for residential development. The analysis must include,*
41 *without limitation:*

42 (I) *A determination of whether the existing*
43 *infrastructure is sufficient to sustain the current needs and*
44 *projected growth of the community; and*



(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community ~~H~~ *for a period of at least 5 years.*

(f) Land use plan. An inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(1) Must address, if applicable, mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts.

(2) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

(g) Population plan. An estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

(h) Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

(i) Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.

(j) Recreation plan. Showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

(k) Rural neighborhoods preservation plan. In any county whose population is 400,000 or more, showing general plans to preserve the character and density of rural neighborhoods.

(l) Safety plan. In any county whose population is 400,000 or more, identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The plan may set forth policies for avoiding or minimizing the risks from those hazards.



(m) School facilities plan. Showing the general locations of current and future school facilities based upon information furnished by the appropriate local school district.

(n) Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

(o) Solid waste disposal plan. Showing general plans for the disposal of solid waste.

(p) Streets and highways plan. Showing the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes.

(q) Transit plan. Showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

(r) Transportation plan. Showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, *and section 1 of this act* prohibits the preparation and adoption of any such subject as a part of the master plan.

Sec. 4. NRS 319.510 is hereby amended to read as follows:

319.510 1. Money deposited in the Account for Low-Income Housing must be used:

(a) For the acquisition, construction or rehabilitation of housing for eligible families by public or private nonprofit charitable organizations, housing authorities or local governments through loans, grants or subsidies;

(b) To provide technical and financial assistance to public or private nonprofit charitable organizations, housing authorities and local governments for the acquisition, construction or rehabilitation of housing for eligible families;

(c) To provide funding for projects of public or private nonprofit charitable organizations, housing authorities or local governments that provide assistance to or guarantee the payment of rent or deposits as security for rent for eligible families, including homeless persons;



(d) To reimburse the Division for the costs of administering the Account; and

(e) In any other manner consistent with this section to assist eligible families in obtaining or keeping housing, including use as the State's contribution to facilitate the receipt of related federal money.

2. Except as otherwise provided in this subsection, the Division may expend money from the Account as reimbursement for the necessary costs of efficiently administering the Account and any money received pursuant to 42 U.S.C. §§ 12701 et seq. In no case may the Division expend more than \$40,000 per year or an amount equal to 6 percent of any money made available to the State pursuant to 42 U.S.C. §§ 12701 et seq., whichever is greater. Of the remaining money allocated from the Account:

(a) Except as otherwise provided in subsection 3, 15 percent must be distributed to the Division of Welfare and Supportive Services of the Department of Health and Human Services for use in its program developed pursuant to 45 C.F.R. § 233.120 to provide emergency assistance to needy families with children, subject to the following:

(1) The Division of Welfare and Supportive Services shall adopt regulations governing the use of the money that are consistent with the provisions of this section.

(2) The money must be used solely for activities relating to low-income housing that are consistent with the provisions of this section.

(3) The money must be made available to families that have children and whose income is at or below the federally designated level signifying poverty.

(4) All money provided by the Federal Government to match the money distributed to the Division of Welfare and Supportive Services pursuant to this section must be expended for activities consistent with the provisions of this section.

(b) Eighty-five percent must be distributed to public or private nonprofit charitable organizations, housing authorities and local governments for the acquisition, construction and rehabilitation of housing for eligible families, subject to the following:

(1) Priority must be given to those projects that qualify for the federal tax credit relating to low-income housing.

(2) Priority must be given to those projects that anticipate receiving federal money to match the state money distributed to them.

(3) Priority must be given to those projects that have the commitment of a local government to provide assistance to them.



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(4) ~~[(A)]~~ *Priority must be given to a local government that applies for and receives money pursuant to section 1 of this act.*

(5) *Except as otherwise provided in this subparagraph, all money must be used to benefit families whose income does not exceed 60 percent of the median income for families residing in the same county, as defined by the United States Department of Housing and Urban Development.*

~~[(5)]~~ *If a local government applies for and receives money pursuant to section 1 of this act, the money must be used to benefit families whose income does not exceed 80 percent of the median income for families residing in the same county, as defined by the United States Department of Housing and Urban Development.*

(6) Not less than 15 percent of the units acquired, constructed or rehabilitated must be affordable to persons whose income is at or below the federally designated level signifying poverty. For the purposes of this subparagraph, a unit is affordable if a family does not have to pay more than 30 percent of its gross income for housing costs, including both utility and mortgage or rental costs.

~~[(6)]~~ (7) To be eligible to receive money pursuant to this paragraph, a project must be sponsored by a local government.

3. The Division may, pursuant to contract and in lieu of distributing money to the Division of Welfare and Supportive Services pursuant to paragraph (a) of subsection 2, distribute any amount of that money to private or public nonprofit entities for use consistent with the provisions of this section.

Sec. 5. Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

1. If the Housing Division of the Department of Business and Industry imposes a penalty against a city or county pursuant to section 1 of this act, the Executive Director shall, on or before March 1 of the year in which the penalty is imposed:

(a) Determine the amount of the penalty by determining the total amount of the real property transfer tax described in paragraph (a) of subsection 1 of NRS 375.070 which is attributable to the city or county for the preceding fiscal year; and

(b) Report the amount determined pursuant to paragraph (a) to the State Treasurer and the city or county.

2. For the fiscal year beginning on July 1 of the year in which the penalty is imposed, the State Treasurer shall:

(a) Subtract one-twelfth of the amount of the penalty that is determined by the Executive Director pursuant to subsection 1 from the amount remitted monthly to the city or county pursuant to NRS 360.690; or

(b) If the city or county has entered into a cooperative agreement pursuant to NRS 360.730, collect, on a monthly basis,



1 *one-twelfth of the amount of the penalty that is determined by the*
2 *Executive Director pursuant to subsection 1 from the city or*
3 *county,*

4 *↪ and deposit that amount into the Account for Low-Income*
5 *Housing established pursuant to NRS 319.500.*

6 **Sec. 6.** NRS 704.848 is hereby amended to read as follows:

7 704.848 1. "Other permitting entity" means any state or local
8 entity:

9 (a) That is responsible for the enforcement of environmental
10 laws and whose approval is required for the construction of a utility
11 facility, including, without limitation, the State Environmental
12 Commission, the State Department of Conservation and Natural
13 Resources and a local air pollution control board; or

14 (b) Whose approval is required for granting any variance,
15 special use permit, conditional use permit or other special exception
16 under NRS 278.010 to 278.319, inclusive, *and section 1 of this act,*
17 or 278.640 to 278.675, inclusive, or any regulation or ordinance
18 adopted pursuant thereto, that is required for the construction of a
19 utility facility.

20 2. The term does not include the Commission or the State
21 Engineer.

