

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 certain cities and counties to adopt certain measures to implement a housing plan that is included in a master plan; providing a procedure for reporting progress in maintaining and developing affordable housing, reviewing such reports and imposing penalties for lack of adequate progress; 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 the adoption of a master plan in a county whose population is 400,000 or more (currently Clark County) and requires that the master plan include a housing plan. If a master plan is adopted in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County), the master plan is required to include a housing plan. Under existing law, such a housing plan is required to include a plan for maintaining and developing affordable housing to meet the housing needs of the community. (NRS 278.150, 278.160)

**Section 1.3** of this bill requires the governing body of a city or county that is required to include a housing plan in its master plan, in implementing a plan for maintaining and developing affordable housing to meet the housing needs of the community, to adopt at least 6 of 12 specified measures relating to the maintenance and development of affordable housing in the jurisdiction. **Sections 1.3 and 1.7** also: (1) require such 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; (2) require the Interim Finance Committee to review those reports and, at the Committee’s



discretion, determine whether a city or county made adequate progress in maintaining and developing affordable housing during the reporting period; and (3) authorize the Interim Finance Committee to recommend that the Housing Division impose a penalty against a city or county that does not make such adequate progress. **Section 5** of this bill sets forth the formula for determining the amount of any such penalty. Pursuant to **section 7** of this bill, the penalty provisions do not become effective until October 1, 2008, and therefore do not apply to the initial annual reports submitted to the Housing Division.

For purposes of the provisions governing land use planning that address affordable housing, 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. (NRS 278.0105) **Section 2** of this bill decreases the total gross income of a family that is used for determining whether housing is affordable in the definition of "affordable housing" from a total gross income that is less than 110 percent of the median gross income for the relevant county to a total gross income that does not exceed 80 percent of that median gross income, which thereby limits the scope of the provisions governing land use planning that address affordable housing.

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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 there to the provisions set forth as sections 1.3 and 1.7 of this act.

**Sec. 1.3. 1.** *If the governing body of a city or county is required to include a housing plan in its master plan pursuant to NRS 278.150, the governing body, in carrying out the plan for maintaining and developing affordable housing to meet the housing needs of the community, which is required to be included in the housing plan pursuant to subparagraph (8) of paragraph (e) of subsection 1 of NRS 278.160, shall adopt at least six of the following measures:*

*(a) At the expense of the city or county, as applicable, subsidizing in whole or in part 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, and requiring that any such savings, subsidy or reduction in price be passed on to the purchaser of housing in such a development. 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) Donating land owned by the city or county to a nonprofit organization to be used for affordable housing.*



1       (d) *Leasing land by the city or county to be used for affordable*  
2 *housing.*

3       (e) *Requesting to purchase land owned by the Federal*  
4 *Government at a discounted price for the creation of affordable*  
5 *housing pursuant to the provisions of section 7(b) of the*  
6 *Southern Nevada Public Land Management Act of 1998, Public*  
7 *Law 105-263.*

8       (f) *Establishing a trust fund for affordable housing that must*  
9 *be used for the acquisition, construction or rehabilitation of*  
10 *affordable housing.*

11       (g) *Establishing a process that expedites the approval of plans*  
12 *and specifications relating to maintaining and developing affordable*  
13 *housing.*

14       (h) *Providing money, support or density bonuses for*  
15 *affordable housing developments that are financed, wholly or in*  
16 *part, with low-income housing tax credits, private activity bonds or*  
17 *money from a governmental entity for affordable housing,*  
18 *including, without limitation, money received pursuant to 12*  
19 *U.S.C § 1701q and 42 U.S.C. § 8013.*

20       (i) *Providing financial incentives or density bonuses to*  
21 *promote appropriate transit-oriented housing developments that*  
22 *would include an affordable housing component.*

23       (j) *Offering density bonuses or other incentives to encourage*  
24 *the development of affordable housing.*

25       (k) *Providing direct financial assistance to qualified applicants*  
26 *for the purchase or rental of affordable housing.*

27       (l) *Providing money for supportive services necessary to enable*  
28 *persons with supportive housing needs to reside in affordable*  
29 *housing in accordance with a need for supportive housing*  
30 *identified in the 5-year consolidated plan adopted by the United*  
31 *States Department of Housing and Urban Development for the*  
32 *city or county pursuant to 42 U.S.C. § 12705 and described in 24*  
33 *C.F.R. Part 91.*

34       2. *On or before January 15 of each year, the governing body*  
35 *shall submit to the Housing Division of the Department of*  
36 *Business and Industry a report, in the form prescribed by the*  
37 *Division, of how the measures adopted pursuant to subsection 1*  
38 *assisted the city or county in maintaining and developing*  
39 *affordable housing to meet the needs of the community for the*  
40 *preceding year. The report must include an analysis of the need*  
41 *for affordable housing within the city or county that exists at the*  
42 *end of the reporting period.*

43       **Sec. 1.7. 1. The Interim Finance Committee shall review**  
44 *the compilation of reports submitted by the Housing Division of*  
45 *the Department of Business and Industry pursuant to section 1.3*



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1 of this act and may determine, based on the pertinent report in the  
2 compilation, whether a city or county made adequate progress  
3 during the reporting period in maintaining and developing  
4 affordable housing to meet the housing needs of the community.

5 2. If the Interim Finance Committee determines pursuant to  
6 subsection 1 that a city or county has not made adequate progress  
7 in maintaining and developing affordable housing to meet the  
8 housing needs of the community, the Interim Finance Committee  
9 may recommend that the Housing Division impose a penalty  
10 against the city or county in an amount determined pursuant to  
11 section 5 of this act. If the Interim Finance Committee makes such  
12 a recommendation, the Housing Division shall notify the  
13 governing body of the city or county and the Executive Director of  
14 the Department of Taxation that the Housing Division will be  
15 imposing a penalty against the city or county.

16 3. The governing body of a city or county against whom a  
17 penalty is imposed pursuant to subsection 2 may apply to the  
18 Housing Division for an amount from the Account for Low-  
19 Income Housing created pursuant to NRS 319.500 that does not  
20 exceed the amount of the penalty determined by the Executive  
21 Director of the Department of Taxation pursuant to section 5 of  
22 this act. Any money that the governing body receives pursuant to  
23 this subsection must be used exclusively for the purpose of  
24 maintaining and developing affordable housing in the community  
25 and must be reverted to the Account if it is not used for this  
26 purpose within 4 years after receipt.

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

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

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

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

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

44 (b) Conservation plan. For the conservation, development and  
45 utilization of natural resources, including, without limitation, water



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

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

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

20 (e) Housing plan. The housing plan must include, without  
21 limitation:

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

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

33 (3) An analysis of *projected growth and* the demographic  
34 characteristics of the community.

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

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

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



1           (I) A determination of whether the existing  
2 infrastructure is sufficient to sustain the current needs and  
3 projected growth of the community; and

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

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

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

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

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

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

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

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

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

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

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

42          (l) Safety plan. In any county whose population is 400,000 or  
43 more, identifying potential types of natural and man-made hazards,  
44 including, without limitation, hazards from floods, landslides or  
45 fires, or resulting from the manufacture, storage, transfer or use of



1 bulk quantities of hazardous materials. The plan may set forth  
2 policies for avoiding or minimizing the risks from those hazards.

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

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

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

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

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

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

25 2. The commission may prepare and adopt, as part of the  
26 master plan, other and additional plans and reports dealing with such  
27 other subjects as may in its judgment relate to the physical  
28 development of the city, county or region, and nothing contained in  
29 NRS 278.010 to 278.630, inclusive, *and section 1.3 of this act*  
30 prohibits the preparation and adoption of any such subject as a part  
31 of the master plan.

32 **Sec. 3.5.** NRS 218.6827 is hereby amended to read as follows:

33 218.6827 1. Except as otherwise provided in subsection 2,  
34 the Interim Finance Committee may exercise the powers conferred  
35 upon it by law only when the Legislature is not in regular or special  
36 session.

37 2. During a regular or special session, the Interim Finance  
38 Committee may also perform the duties imposed on it by subsection  
39 5 of NRS 284.115, subsection 2 of NRS 321.335, NRS 322.007,  
40 subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS  
41 323.100, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive,  
42 and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS  
43 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing  
44 those duties, the Senate Standing Committee on Finance and the  
45 Assembly Standing Committee on Ways and Means may meet



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1 separately and transmit the results of their respective votes to the  
2 Chairman of the Interim Finance Committee to determine the action  
3 of the Interim Finance Committee as a whole.

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

5 319.510 1. Money deposited in the Account for Low-Income  
6 Housing must be used:

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

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

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

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

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

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

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

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

43 (2) The money must be used solely for activities relating to  
44 low-income housing that are consistent with the provisions of this  
45 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.

(4) ~~[(A)]~~ *Priority must be given to a local government that applies for and receives money pursuant to section 1.7 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 1.7 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, upon the recommendation of the Interim Finance Committee pursuant to section 1.7 of this act, the Housing Division of the Department of Business and Industry imposes a penalty against a city or county, the Executive Director shall:*

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

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

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

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

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

(b) Whose approval is required for granting any variance, special use permit, conditional use permit or other special exception under NRS 278.010 to 278.319, inclusive, *and section 1.3 of this act*, or 278.640 to 278.675, inclusive, or any regulation or ordinance adopted pursuant thereto, that is required for the construction of a utility facility.

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

**Sec. 7.** 1. This section and sections 1, 1.3, 2, 3 and 6 of this act become effective on October 1, 2007.



1        2. Sections 1.7, 3.5, 4 and 5 of this act become effective on  
2    October 1, 2008.

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