

## Amendment No. 1004

Senate Amendment to Assembly Bill No. 439 Second Reprint (BDR 22-1302)

Proposed by: Senator Hardy

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date		SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

EGO



Date: 5/25/2007

A.B. No. 439—Makes various changes relating to developing and maintaining affordable housing. (BDR 22-1302)



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.

~

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]~~ **and to report their** 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]~~ **Section 1.3** ~~[and 1.7]~~ also ~~[- (1) require]~~ **requires** 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.]~~ **The**

**Housing Division is required to submit a compilation of the reports to the Legislature, or to the Legislative Commission if the Legislature is not in session.**

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.

**Existing law sets forth the subject matters of a master plan. (NRS 278.160) Section 3 of this bill revises the contents of the housing plan portion of a master plan.**

---

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 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.***

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

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

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

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

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

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

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

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

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

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. The report must include an analysis of the need for affordable housing within the city or county that exists at the end of the reporting period.

3. On or before February 15 of each year, the Housing Division shall compile the reports submitted pursuant to subsection 2 and transmit the compilation to the ~~Interim Finance Committee~~ Legislature, or the Legislative Commission if the Legislature is not in regular session.

~~Sec. 1.7. 1. The Interim Finance Committee shall review the compilation of reports submitted by the Housing Division of the Department of Business and Industry pursuant to section 1.3 of this act and may determine, based on the pertinent report in the compilation, whether a city or county made adequate progress during the reporting period in maintaining and developing affordable housing to meet the housing needs of the community.~~

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

~~3. The governing body of a city or county against whom a penalty is imposed pursuant to subsection 2 may apply to the Housing Division for an amount from the Account for Low Income Housing created pursuant to NRS 319.500 that does not exceed the amount of the penalty determined by the Executive Director of the Department of Taxation pursuant to section 5 of this act. Any money that the governing body receives pursuant to this subsection must be used exclusively for the purpose of maintaining and developing affordable housing in the community and must be reverted to the Account if it is not used for this purpose within 4 years after receipt.~~ **(Deleted by amendment.)**

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

278.0105 "Affordable housing" means housing affordable for a family with a total gross income ~~less than 140~~ **that does not exceed 80** percent of the median gross income for the county concerned based upon the estimates of the United States Department of Housing and Urban Development of the most current median gross family income for the county.

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

2       278.160 1. Except as otherwise provided in subsection 4 of NRS 278.150  
3 and subsection 3 of NRS 278.170, the master plan, with the accompanying charts,  
4 drawings, diagrams, schedules and reports, may include such of the following  
5 subject matter or portions thereof as are appropriate to the city, county or region,  
6 and as may be made the basis for the physical development thereof:

7       (a) Community design. Standards and principles governing the subdivision of  
8 land and suggestive patterns for community design and development.

9       (b) Conservation plan. For the conservation, development and utilization of  
10 natural resources, including, without limitation, water and its hydraulic force,  
11 underground water, water supply, solar or wind energy, forests, soils, rivers and  
12 other waters, harbors, fisheries, wildlife, minerals and other natural resources. The  
13 plan must also cover the reclamation of land and waters, flood control, prevention  
14 and control of the pollution of streams and other waters, regulation of the use of  
15 land in stream channels and other areas required for the accomplishment of the  
16 conservation plan, prevention, control and correction of the erosion of soils through  
17 proper clearing, grading and landscaping, beaches and shores, and protection of  
18 watersheds. The plan must also indicate the maximum tolerable level of air  
19 pollution.

20       (c) Economic plan. Showing recommended schedules for the allocation and  
21 expenditure of public money in order to provide for the economical and timely  
22 execution of the various components of the plan.

23       (d) Historical properties preservation plan. An inventory of significant  
24 historical, archaeological and architectural properties as defined by a city, county or  
25 region, and a statement of methods to encourage the preservation of those  
26 properties.

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

28       (1) An inventory of housing conditions, needs and plans and procedures for  
29 improving housing standards and for providing adequate housing ~~to~~ *to individuals*  
30 *and families in the community, regardless of income level.*

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

36       (3) An analysis of *projected growth and* the demographic characteristics of  
37 the community.

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

40       (5) An analysis of any impediments to the development of affordable  
41 housing and the development of policies to mitigate those impediments.

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

45       (I) *A determination of whether the existing infrastructure is*  
46 *sufficient to sustain the current needs and projected growth of the community;*  
47 *and*

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

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

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community ~~for~~ *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 1.3 of this act* prohibits the preparation and adoption of any such subject as a part of the master plan.

**Sec. 3.5.** ~~NRS 218.6827 is hereby amended to read as follows:~~  
~~218.6827 1. Except as otherwise provided in subsection 2, the Interim Finance Committee may exercise the powers conferred upon it by law only when the Legislature is not in regular or special session.~~  
~~2. During a regular or special session, the Interim Finance Committee may also perform the duties imposed on it by subsection 5 of NRS 284.115, subsection 2 of NRS 221.325, NRS 322.007, subsection 2 of NRS 323.020, NRS 323.050, subsection 1 of NRS 323.100, NRS 353.220, 353.224, 353.2705 to 353.2771, inclusive, and 353.335, paragraph (b) of subsection 4 of NRS 407.0762, NRS 428.375, 439.620, 439.630, 445B.830 and 538.650. In performing those duties, the Senate Standing Committee on Finance and the Assembly Standing Committee on Ways and Means may meet separately and transmit the results of their respective votes to the Chairman of the Interim Finance Committee to determine the action of the Interim Finance Committee as a whole.~~ **(Deleted by amendment.)**

**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. § 223.120 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.~~

~~(4) [All] 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.~~

~~2. 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.] (Deleted by amendment.)~~

~~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.] (Deleted by amendment.)~~

**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.] (Deleted by amendment.)~~

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

~~2. Sections 1.7, 3.5, 4 and 5 of this act become effective on October 1, 2008.] (Deleted by amendment.)~~