

SENATE BILL NO. 42—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE STATE PUBLIC WORKS BOARD)

PREFILED DECEMBER 5, 2008

Referred to Committee on Government Affairs

**SUMMARY**—Exempts from the authority of the State Public Works Board and the deputy manager for compliance and code enforcement certain projects, improvements and buildings administered by other agencies. (BDR 28-326)

**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 State Public Works Board; exempting from the authority of the Board and the deputy manager for compliance and code enforcement certain projects, improvements and buildings administered by the Department of Transportation, the Division of State Parks of the State Department of Conservation and Natural Resources or the Department of Wildlife; providing for the Department of Transportation to determine the use of certain buildings; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Under existing law, the deputy manager for compliance and code enforcement appointed by the State Public Works Board serves as the building official for all public buildings and structures. (NRS 341.100) Existing law also provides that the Board has final authority to accept certain public buildings and structures as completed or to require alterations thereto. (NRS 341.100, 341.145)

This bill exempts from the authority of the Board and of the deputy manager for compliance and code enforcement certain projects, improvements and buildings or structures administered by the Department of Transportation, the Division of State Parks of the State Department of Conservation and Natural Resources or the Department of Wildlife.

Existing law also exempts, among other structures, buildings used in maintaining highways from a requirement that the Board provide architectural and



13 engineering services to state agencies that are constructing buildings. (NRS  
14 341.141) **Section 3** of this bill provides that the Department of Transportation will  
15 determine whether a building is "used in maintaining highways" for the purpose of  
16 this section and that the exemption applies to such buildings located on property  
17 controlled by the Department of Transportation.

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

1     **Section 1.** NRS 341.100 is hereby amended to read as follows:

2     341.100 1. The Board shall appoint a Manager and a deputy  
3 manager for compliance and code enforcement, each of whom must  
4 be approved by the Governor. The Manager and the deputy manager  
5 for compliance and code enforcement serve at the pleasure of the  
6 Board and the Governor.

7     2. The Manager, with the approval of the Board, shall appoint:

8     (a) A deputy manager for professional services; and

9     (b) A deputy manager for administrative, fiscal and  
10 constructional services.

11     ↪ Each deputy manager appointed pursuant to this subsection  
12 serves at the pleasure of the Manager.

13     3. The Manager may appoint such other technical and clerical  
14 assistants as may be necessary to carry into effect the provisions of  
15 this chapter.

16     4. The Manager and each deputy manager are in the  
17 unclassified service of the State. Except as otherwise provided in  
18 NRS 284.143, the Manager and each deputy manager shall devote  
19 his entire time and attention to the business of his office and shall  
20 not pursue any other business or occupation or hold any other office  
21 of profit.

22     5. The Manager and the deputy manager for professional  
23 services must each be a licensed professional engineer pursuant to  
24 the provisions of chapter 625 of NRS or an architect registered  
25 pursuant to the provisions of chapter 623 of NRS.

26     6. The deputy manager for administrative, fiscal and  
27 constructional services must have a comprehensive knowledge of  
28 the principles of administration and a working knowledge of the  
29 principles of engineering or architecture as determined by the  
30 Board.

31     7. The deputy manager for compliance and code enforcement  
32 must have a comprehensive knowledge of building codes and a  
33 working knowledge of the principles of engineering or architecture  
34 as determined by the Board.

35     8. The Manager shall:

36     (a) Serve as the Secretary of the Board.



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(b) Manage the daily affairs of the Board.

(c) Represent the Board before the Legislature.

(d) Prepare and submit to the Board, for its approval, the recommended priority for proposed capital improvement projects and provide the Board with an estimate of the cost of each project.

(e) Make recommendations to the Board for the selection of architects, engineers and contractors.

(f) Make recommendations to the Board concerning the acceptance of completed projects.

(g) Submit in writing to the Board, the Governor and the Interim Finance Committee a monthly report regarding all public works projects which are a part of the approved capital improvement program. For each such project, the monthly report must include, without limitation, a detailed description of the progress of the project which highlights any specific events, circumstances or factors that may result in:

(1) Changes in the scope of the design or construction of the project or any substantial component of the project which increase or decrease the total square footage or cost of the project by 10 percent or more;

(2) Increased or unexpected costs in the design or construction of the project or any substantial component of the project which materially affect the project;

(3) Delays in the completion of the design or construction of the project or any substantial component of the project; or

(4) Any other problems which may adversely affect the design or construction of the project or any substantial component of the project.

(h) Have final authority to approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping ~~[-]~~ , *except for the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping associated with buildings and improvements for which the Board is exempted, pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 341.141, from the requirement that it furnish engineering and architectural services.*

9. The deputy manager for compliance and code enforcement shall :

(a) ~~[-serve]~~ *Serve* as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government ~~[-]~~ , *except, subject to the provisions of subsection 10, for:*

*(1) The following, if administered by the Department of Transportation, the Division of State Parks of the State*



*Department of Conservation and Natural Resources or the Department of Wildlife:*

*(I) Maintenance projects;*

*(II) Site improvements; and*

*(III) Unenclosed or normally unoccupied buildings or structures; and*

*(2) Buildings and improvements for which the Board is exempted, pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 341.141, from the requirement that it furnish engineering and architectural services; and*

*(b) Make recommendations to the Board concerning compliance with codes adopted by the Board for the acceptance of completed projects, except, subject to the provisions of subsection 10, for:*

*(1) The following, if administered by the Department of Transportation, the Division of State Parks of the State Department of Conservation and Natural Resources or the Department of Wildlife:*

*(I) Maintenance projects;*

*(II) Site improvements; and*

*(III) Unenclosed or normally unoccupied buildings or structures; and*

*(2) Buildings and improvements for which the Board is exempted, pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 341.141, from the requirement that it furnish engineering and architectural services.*

*10. Nothing in subsection 9 shall be construed to exempt any building, structure or improvement from any applicable standards or codes.*

*11. As used in this section, "normally unoccupied building or structure" means a general utility or equipment building or structure, including, without limitation, a:*

*(a) Pump house;*

*(b) Well house;*

*(c) Water or sewage treatment plant;*

*(d) Building or structure whose primary purpose is the storage or protection of electrical or electronic equipment;*

*(e) Enclosed storage facility; or*

*(f) Garage,*

*↳ into which personnel from, as applicable, the Department of Transportation, the Division of State Parks of the State Department of Conservation and Natural Resources or the Department of Wildlife enter intermittently for activities including, without limitation, the monitoring of equipment or gauges, the servicing of equipment that is permanently housed in the building*



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1 *or structure, or the moving of materials or equipment stored in the*  
2 *building or structure.*

3 **Sec. 2.** NRS 341.119 is hereby amended to read as follows:

4 341.119 1. Upon the request of the head of a state agency, the  
5 Board may delegate to that agency any of the authority granted the  
6 Board pursuant to NRS 341.141 to 341.148, inclusive ~~to~~, *except for*  
7 *the authority to require necessary alterations to conform to codes*  
8 *and to file certificates of occupancy granted to the Board pursuant*  
9 *to the provisions of subsection 9 of NRS 341.145.*

10 2. This section does not limit any of the authority of the  
11 Legislature when the Legislature is in regular or special session or  
12 the Interim Finance Committee when the Legislature is not in  
13 regular or special session to consult with the Board concerning a  
14 construction project or to approve the advance planning of a project.

15 **Sec. 3.** NRS 341.141 is hereby amended to read as follows:

16 341.141 1. The Board shall furnish engineering and  
17 architectural services to the Nevada System of Higher Education  
18 and all other state departments, boards or commissions charged with  
19 the construction of any building constructed on state property or for  
20 which the money is appropriated by the Legislature, except:

21 (a) Buildings *on property controlled by the Department of*  
22 *Transportation and used , as determined by the Department of*  
23 *Transportation*, in maintaining highways;

24 (b) Improvements, other than nonresidential buildings with more  
25 than 1,000 square feet in floor area, made:

26 (1) In state parks by the State Department of Conservation  
27 and Natural Resources; or

28 (2) By the Department of Wildlife; and

29 (c) Buildings on property controlled by other state agencies if  
30 the Board has delegated its authority in accordance with  
31 NRS 341.119.

32 ➔ The Board of Regents of the University of Nevada and all other  
33 state departments, boards or commissions shall use those services.

34 2. The services must consist of:

35 (a) Preliminary planning;

36 (b) Designing;

37 (c) Estimating of costs; and

38 (d) Preparation of detailed plans and specifications.

39 **Sec. 4.** NRS 341.145 is hereby amended to read as follows:

40 341.145 The Board:

41 1. Shall determine whether any rebates are available from a  
42 public utility for installing devices in any state building which are  
43 designed to decrease the use of energy in the building. If such a  
44 rebate is available, the Board shall apply for the rebate.



2. Shall solicit bids for and let all contracts for new construction or major repairs.

3. May negotiate with the lowest responsible and responsive bidder on any contract to obtain a revised bid if:

(a) The bid is less than the appropriation made by the Legislature for that building project; and

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

4. May reject any or all bids.

5. After the contract is let, shall supervise and inspect construction and major repairs. The cost of supervision and inspection must be financed from the capital construction program approved by the Legislature.

6. Shall obtain prior approval from the Interim Finance Committee before authorizing any change in the scope of the design or construction of a project as that project was authorized by the Legislature ~~if~~ if the change increases or decreases the total square footage or cost of the project by 10 percent or more.

7. Except for changes that require prior approval pursuant to subsection 6, may authorize change orders, before or during construction:

(a) In any amount, where the change represents a reduction in the total awarded contract price.

(b) Except as otherwise provided in paragraph (c), not to exceed in the aggregate 15 percent of the total awarded contract price, where the change represents an increase in that price.

(c) In any amount, where the total awarded contract price is less than \$50,000 and the change represents an increase not exceeding the amount of the total awarded contract price.

(d) In any amount, where additional money was authorized or appropriated by the Legislature and issuing a new contract would not be in the best interests of the State.

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

9. Has final authority to accept each building or structure, or any portion thereof, on property of the State or held in trust for any division of the State Government as completed or to require necessary alterations to conform to the contract or to codes adopted by the Board, and to file the notice of completion and *to issue the*



certificate of occupancy for the building or structure **H**, *except, subject to the provisions of subsection 10, for:*

*(1) The following, if administered by the Department of Transportation, the Division of State Parks of the State Department of Conservation and Natural Resources or the Department of Wildlife:*

*(I) Maintenance projects;*

*(II) Site improvements; and*

*(III) Unenclosed or normally unoccupied buildings or structures, as defined in subsection 11 of NRS 341.100; and*

*(2) Buildings and improvements for which the Board is exempted, pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 341.141, from the requirement that it furnish engineering and architectural services.*

*10. Nothing in subsection 9 shall be construed to exempt any building, structure or improvement from any applicable standards or codes.*

**Sec. 5.** NRS 341.153 is hereby amended to read as follows:

341.153 1. The Legislature hereby finds as facts:

(a) That the construction of public buildings is a specialized field requiring for its successful accomplishment a high degree of skill and experience not ordinarily acquired by public officers and employees whose primary duty lies in some other field.

(b) That this construction involves the expenditure of large amounts of public money which, whatever their particular constitutional, statutory or governmental source, involve a public trust.

(c) That the application by state agencies of conflicting standards of performance results in wasteful delays and increased costs in the performance of public works.

2. The Legislature therefore declares it to be the policy of this State that all construction of buildings upon property of the State or held in trust for any division of the State Government be supervised by **H** and , *except as otherwise provided in subsection 9 of NRS 341.100*, final authority for its completion and acceptance vested in, the Board as provided in NRS 341.141 to 341.148, inclusive **H**, *except, subject to the provisions of subsection 3, for buildings and improvements for which the Board is exempted, pursuant to the provisions of paragraphs (a) and (b) of subsection 1 of NRS 341.141, from the requirement that it furnish engineering and architectural services.*

*3. Nothing in subsection 2 shall be construed to exempt any building, structure or improvement from any applicable standards or codes.*



1      **Sec. 6.**   This act becomes effective upon passage and approval.

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