

Amendment No. 55

Senate Amendment to Senate Bill No. 40 (BDR 28-436)

Proposed by: Senate Committee on Government Affairs**Amends:** Summary: Yes 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 underlining* is newly added transitory language.

HAC/WLK



Date: 4/8/2011

S.B. No. 40—Requires certain state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting regulations concerning the construction, maintenance, operation or safety of buildings or structures. (BDR 28-436)



SENATE BILL NO. 40—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE STATE PUBLIC WORKS BOARD)

PREFILED DECEMBER 14, 2010

Referred to Committee on Government Affairs

SUMMARY—Requires ~~[certain state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting]~~ the State Public Works Board to adopt regulations concerning the construction, maintenance, operation ~~for]~~ and safety of certain buildings ~~for]~~ and structures. (BDR 28-436)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: Yes.

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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 real property; requiring ~~[certain state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting]~~ the State Public Works Board to adopt regulations concerning the construction, maintenance, operation ~~for]~~ and safety of certain buildings and structures; requiring the deputy manager for compliance and code enforcement to make recommendations to the Board concerning such regulations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law requires the State Public Works Board to appoint a deputy manager for compliance and code enforcement, who serves 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. (NRS 241.100).]~~ Section 1 of this bill requires the State Public Works Board to adopt regulations concerning the construction, maintenance, operation and safety of buildings and structures on property of this State or held in trust for any division of the State Government. Section 2 of this bill requires the deputy manager for compliance and code enforcement to make recommendations to the Board concerning these regulations.

Existing law ~~[also]~~ authorizes or, in some cases, requires certain state agencies and officials to adopt regulations concerning the construction, maintenance, operation or safety of certain buildings or structures. (NRS 446.940, 449.250-449.430, 455C.110, 461.170, 472.040, 477.030) Specifically, these agencies and officials include the State Board of Health, the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry, the Manufactured Housing Division of the Department of Business and Industry, the State Forester Firewarden and the State Fire Marshal. ~~[Sections 3-10 of this bill require these state agencies and officials to consult with the deputy manager for compliance and code enforcement before adopting regulations concerning the construction, maintenance, operation or safety of buildings or structures in the State. Section 1 of this bill requires the deputy manager to consult with such an agency or official and to~~

~~provide recommendations regarding how the agency or official's regulation, as it applies to buildings and structures on property of this State or held in trust for any division of the State Government, may be made consistent with other regulations which apply to such buildings or structures.] Sections 4-11 of this bill prohibit these state agencies and officials from adopting regulations which apply to the buildings and structures on property of this State or held in trust for any division of State Government and which conflict with the regulations adopted by the State Public Works Board.~~

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

Section 1. Chapter 341 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Subject to the provisions of subsection 2, the Board shall adopt regulations concerning the construction, maintenance, operation and safety of buildings and structures on property of this State or held in trust for any division of the State Government.

2. Before adopting any regulation pursuant to subsection 1, the Board shall consult with the State Board of Health, the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry, the Manufactured Housing Division of the Department of Business and Industry, the State Forester Firewarden or the State Fire Marshal, as applicable, if such state agency or official has authority to adopt similar regulations which apply to buildings and structures that are not on property of the State or held in trust for a division of the State Government.

~~[Section 1.]~~ Sec. 2. NRS 341.100 is hereby amended to read as follows:

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

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

(a) A deputy manager for professional services; and

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

➤ Each deputy manager appointed pursuant to this subsection serves at the pleasure of the Manager.

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

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

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

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

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

8. The Manager shall:

(a) Serve as the Secretary of the Board.

(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.

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

(a) *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 ~~and~~; *and*

(b) ~~Consult with an agency or official that is considering adoption of a regulation described in sections 3, 4 and 7 to 10, inclusive, of this act and provide~~ *Provide recommendations regarding how the regulation, as it applies to regulations that the Board adopts pursuant to section 1 of this act concerning the construction, maintenance, operation and safety of buildings and structures on property of this State or held in trust for any division of the State Government, may be made consistent with other regulations which apply to such buildings or structures.*

~~Sec. 2.~~ *Sec. 3.* NRS 353.590 is hereby amended to read as follows:

353.590 If an agreement pursuant to NRS 353.500 to 353.630, inclusive, involves the construction, alteration, repair or remodeling of an improvement:

1. Except as otherwise provided in this section, the construction, alteration, repair or remodeling of the improvement may be conducted as specified in the agreement without complying with the provisions of:

(a) Any law requiring competitive bidding; or

(b) Chapter 341 of NRS.

2. The person or entity that enters into the agreement for the actual construction, alteration, repair or remodeling of the improvement shall include in the agreement the contractual provisions and stipulations that are required to be included in a contract for a public work pursuant to the provisions of NRS 338.013 to 338.090, inclusive.

3. The State or a state agency, the contractor who is awarded the contract or entered into the agreement to perform the construction, alteration, repair or remodeling of the improvement and any subcontractor on the project shall comply with the provisions of NRS 338.013 to 338.090, inclusive, in the same manner as if the State or a state agency had undertaken the project or had awarded the contract.

4. The provisions of:

(a) ~~[(Subsection)]~~ *Paragraph (b) of subsection 9* of NRS 341.100; and

(b) NRS 341.105,

✓ apply to the construction, alteration, repair or remodeling of the improvement.

~~[(Sec. 3)]~~ **Sec. 4.** Chapter 446 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[(Before)]~~ *Notwithstanding any provision of law to the contrary, the State Board of Health may not adopt any regulation concerning the construction, maintenance, operation or safety of a building ~~[()]~~ or structure ~~[()]~~ for other property in ~~[()]~~ on property of this State ~~[()]~~, the Board shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.*

~~[(Sec. 4)]~~ *or held in trust for any division of the State Government that conflicts with a regulation adopted pursuant to section 1 of this act.*

Sec. 5. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[(Before)]~~ *Notwithstanding any provision of law to the contrary, the State Department may not adopt any regulation concerning the construction, maintenance, operation or safety of a building ~~[()]~~ or structure ~~[()]~~ for other property in ~~[()]~~ on property of this State ~~[()]~~, the State Department shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.*

~~[(Sec. 5)]~~ *or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.*

Sec. 6. NRS 449.250 is hereby amended to read as follows:

449.250 NRS 449.250 to 449.430, inclusive, ~~and section ~~[(4)]~~ 5 of this act~~ may be cited as the Nevada Health Facilities Assistance Act.

~~[(Sec. 6)]~~ **Sec. 7.** NRS 449.260 is hereby amended to read as follows:

449.260 As used in NRS 449.250 to 449.430, inclusive ~~[()]~~, ~~and section ~~[(4)]~~ 5 of this act:~~

1. "Community mental health center" means a facility providing services for the prevention or diagnosis of mental illness, or care and treatment of patients with mental illness, or rehabilitation of such persons, which services are provided principally for persons residing in a particular community in or near which the facility is situated.

2. "Construction" includes the construction of new buildings, modernization, expansion, remodeling and alteration of existing buildings, and initial equipment of such buildings, including medical transportation facilities, and includes architects' fees, but excludes the cost of off-site improvements and, except with respect to public health centers, the cost of the acquisition of the land.

3. "Facility for persons with mental retardation" means a facility specially designed for the diagnosis, treatment, education, training or custodial care of persons with mental retardation, including facilities for training specialists and sheltered workshops for persons with mental retardation, but only if such workshops are part of facilities which provide or will provide comprehensive services for persons with mental retardation.

4. "Federal Act" means 42 U.S.C. §§ 291 to 291o-1, inclusive, and 300k to 300t, inclusive, and any other federal law providing for or applicable to the provision of assistance for health facilities.

5. "Federal agency" means the federal department, agency or official designated by law, regulation or delegation of authority to administer the Federal Act.

6. "Health facility" includes a public health center, hospital, facility for hospice care, facility for persons with mental retardation, community mental health center, and other facility to provide diagnosis, treatment, care, rehabilitation, training or related services to persons with physical or mental impairments, including diagnostic or diagnostic and treatment centers, rehabilitation facilities and nursing homes, as those terms are defined in the Federal Act, and such other facilities for which federal aid may be authorized under the Federal Act, but, except for facilities for persons with mental retardation, does not include any facility furnishing primarily domiciliary care.

7. "Nonprofit health facility" means any health facility owned and operated by a corporation or association, no part of the net earnings of which inures or may lawfully inure to the benefit of any private shareholder or natural person.

8. "Public health center" means a publicly owned facility for the provision of public health services, including related facilities such as laboratories, clinics and administrative offices operated in connection with public health centers.

9. "State Department" means the Department of Health and Human Services, acting through its appropriate divisions.

~~Sec. 7.~~ Sec. 8. Chapter 455C of NRS is hereby amended by adding thereto a new section to read as follows:

~~Before~~ Notwithstanding any provision of law to the contrary, the Division may not adopt any regulation concerning the construction, maintenance, operation or safety of a building ~~or~~ structure ~~for other property in~~ on property of this State ~~, the Division shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.~~

~~Sec. 8.~~ or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.

Sec. 9. Chapter 461 of NRS is hereby amended by adding thereto a new section to read as follows:

~~Before~~ Notwithstanding any provision of law to the contrary, the Division may not adopt any regulation concerning the construction, maintenance, operation or safety of a building ~~or~~ structure ~~for other property in~~ on property of this State ~~, the Division shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.~~

~~Sec. 9.~~ or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.

Sec. 10. Chapter 472 of NRS is hereby amended by adding thereto a new section to read as follows:

~~Before~~ Notwithstanding any provision of law to the contrary, the State Forester Firewarden may not adopt any regulation concerning the construction, maintenance, operation or safety of a building ~~or~~ structure ~~for other property in~~ on property of this State ~~, the State Forester Firewarden shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.~~

~~Sec. 10.] or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.~~

Sec. 11. Chapter 477 of NRS is hereby amended by adding thereto a new section to read as follows:

~~[Before] Notwithstanding any provision of law to the contrary, the State Fire Marshal may not adopt any regulation concerning the construction, maintenance, operation or safety of a building [.] or structure for other property in] on property of this State [, the State Fire Marshal shall consult with the deputy manager for compliance and code enforcement for the purposes of subsection 9 of NRS 341.100.~~

~~Sec. 11.] or held in trust for any division of the State Government that conflicts with a regulation adopted by the State Public Works Board pursuant to section 1 of this act.~~

Sec. 12. Any regulations of the State Board of Health, the Department of Health and Human Services, the Division of Industrial Relations of the Department of Business and Industry, the Manufactured Housing Division of the Department of Business and Industry, the State Forester Firewarden or the State Fire Marshal existing on the effective date of this act which concern the construction, maintenance, operation or safety of buildings or structures on property of this State or held in trust for any division of the State Government remain in effect until the State Public Works Board adopts the regulations required pursuant to section 1 of this act.

Sec. 13. This act becomes effective upon passage and approval.