

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 the State Public Works Board to adopt regulations concerning the construction, maintenance, operation and safety of certain buildings 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 the State Public Works Board to adopt regulations concerning the construction, maintenance, operation 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:

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 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 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



17 of State Government and which conflict with the regulations adopted by the State
18 Public Works Board.

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

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

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

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

17 **Sec. 2.** NRS 341.100 is hereby amended to read as follows:

18 341.100 1. The Board shall appoint a Manager and a deputy
19 manager for compliance and code enforcement, each of whom must
20 be approved by the Governor. The Manager and the deputy manager
21 for compliance and code enforcement serve at the pleasure of the
22 Board and the Governor.

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

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

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

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

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

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

38 5. The Manager and the deputy manager for professional
39 services must each be a licensed professional engineer pursuant to



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1 the provisions of chapter 625 of NRS or an architect registered
2 pursuant to the provisions of chapter 623 of NRS.

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

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

12 8. The Manager shall:

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

14 (b) Manage the daily affairs of the Board.

15 (c) Represent the Board before the Legislature.

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

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

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

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

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

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

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

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

42 (h) Have final authority to approve the architecture of all
43 buildings, plans, designs, types of construction, major repairs and
44 designs of landscaping.



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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 ~~H~~; and

(b) *Provide recommendations regarding 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.*

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. 4. Chapter 446 of NRS is hereby amended by adding thereto a new section to read as follows:

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 on property of this State or held in trust for any division



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1 *of the State Government that conflicts with a regulation adopted*
2 *pursuant to section 1 of this act.*

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

5 *Notwithstanding any provision of law to the contrary, the State*
6 *Department may not adopt any regulation concerning the*
7 *construction, maintenance, operation or safety of a building or*
8 *structure on property of this State or held in trust for any division*
9 *of the State Government that conflicts with a regulation adopted*
10 *by the State Public Works Board pursuant to section 1 of this act.*

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

12 449.250 NRS 449.250 to 449.430, inclusive, *and section 5 of*
13 *this act* may be cited as the Nevada Health Facilities Assistance Act.

14 **Sec. 7.** NRS 449.260 is hereby amended to read as follows:

15 449.260 As used in NRS 449.250 to 449.430, inclusive **H** ,
16 *and section 5 of this act:*

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

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

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

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

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

42 6. "Health facility" includes a public health center, hospital,
43 facility for hospice care, facility for persons with mental retardation,
44 community mental health center, and other facility to provide
45 diagnosis, treatment, care, rehabilitation, training or related services



1 to persons with physical or mental impairments, including
2 diagnostic or diagnostic and treatment centers, rehabilitation
3 facilities and nursing homes, as those terms are defined in the
4 Federal Act, and such other facilities for which federal aid may be
5 authorized under the Federal Act, but, except for facilities for
6 persons with mental retardation, does not include any facility
7 furnishing primarily domiciliary care.

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

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

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

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

20 *Notwithstanding any provision of law to the contrary, the*
21 *Division may not adopt any regulation concerning the*
22 *construction, maintenance, operation or safety of a building or*
23 *structure on property of this State or held in trust for any division*
24 *of the State Government that conflicts with a regulation adopted*
25 *by the State Public Works Board pursuant to section 1 of this act.*

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

28 *Notwithstanding any provision of law to the contrary, the*
29 *Division may not adopt any regulation concerning the*
30 *construction, maintenance, operation or safety of a building or*
31 *structure on property of this State or held in trust for any division*
32 *of the State Government that conflicts with a regulation adopted*
33 *by the State Public Works Board pursuant to section 1 of this act.*

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

36 *Notwithstanding any provision of law to the contrary, the State*
37 *Forester Firewarden may not adopt any regulation concerning the*
38 *construction, maintenance, operation or safety of a building or*
39 *structure on property of this State or held in trust for any division*
40 *of the State Government that conflicts with a regulation adopted*
41 *by the State Public Works Board pursuant to section 1 of this act.*

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

44 *Notwithstanding any provision of law to the contrary, the State*
45 *Fire Marshal may not adopt any regulation concerning the*



1 *construction, maintenance, operation or safety of a building or*
2 *structure on property of this State or held in trust for any division*
3 *of the State Government that conflicts with a regulation adopted*
4 *by the State Public Works Board pursuant to section 1 of this act.*

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

16 **Sec. 13.** This act becomes effective upon passage and
17 approval.

