

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 regulations concerning the construction, maintenance, operation or safety of buildings or 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 regulations concerning the construction, maintenance, operation or safety of buildings and structures; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires the State Public Works Board to appoint a deputy
2 manager for compliance and code enforcement, who serves as the building official
3 for all buildings and structures on property of the State or held in trust for any
4 division of the State Government. (NRS 341.100) Existing law also authorizes or,
5 in some cases, requires certain state agencies and officials to adopt regulations
6 concerning the construction, maintenance, operation or safety of certain buildings
7 or structures. (NRS 446.940, 449.250-449.430, 455C.110, 461.170, 472.040,
8 477.030) Specifically, these agencies and officials include the State Board of
9 Health, the Department of Health and Human Services, the Division of Industrial
10 Relations of the Department of Business and Industry, the Manufactured Housing
11 Division of the Department of Business and Industry, the State Forester Firewarden
12 and the State Fire Marshal. **Sections 4-11** of this bill require these state agencies
13 and officials to consult with the deputy manager for compliance and code
14 enforcement before adopting regulations concerning the construction, maintenance,
15 operation or safety of buildings or structures in the State. **Section 2** of this bill
16 requires the deputy manager to consult with such an agency or official and to
17 provide recommendations regarding how the agency or official's regulation, as it



18 applies to buildings and structures on property of this State or held in trust for any
19 division of the State Government, may be made consistent with other regulations
20 which apply to such buildings or structures.

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

- 1 **Section 1.** (Deleted by amendment.)
2 **Sec. 2.** NRS 341.100 is hereby amended to read as follows:
3 341.100 1. The Board shall appoint a Manager and a deputy
4 manager for compliance and code enforcement, each of whom must
5 be approved by the Governor. The Manager and the deputy manager
6 for compliance and code enforcement serve at the pleasure of the
7 Board and the Governor.
8 2. The Manager, with the approval of the Board, shall appoint:
9 (a) A deputy manager for professional services; and
10 (b) A deputy manager for administrative, fiscal and
11 constructional services.
12 ➔ Each deputy manager appointed pursuant to this subsection
13 serves at the pleasure of the Manager.
14 3. The Manager may appoint such other technical and clerical
15 assistants as may be necessary to carry into effect the provisions of
16 this chapter.
17 4. The Manager and each deputy manager are in the
18 unclassified service of the State. Except as otherwise provided in
19 NRS 284.143, the Manager and each deputy manager shall devote
20 his or her entire time and attention to the business of the office and
21 shall not pursue any other business or occupation or hold any other
22 office of profit.
23 5. The Manager and the deputy manager for professional
24 services must each be a licensed professional engineer pursuant to
25 the provisions of chapter 625 of NRS or an architect registered
26 pursuant to the provisions of chapter 623 of NRS.
27 6. The deputy manager for administrative, fiscal and
28 constructional services must have a comprehensive knowledge of
29 the principles of administration and a working knowledge of the
30 principles of engineering or architecture as determined by the
31 Board.
32 7. The deputy manager for compliance and code enforcement
33 must have a comprehensive knowledge of building codes and a
34 working knowledge of the principles of engineering or architecture
35 as determined by the Board.
36 8. The Manager shall:
37 (a) Serve as the Secretary of the Board.
38 (b) Manage the daily affairs of the Board.



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1 (c) Represent the Board before the Legislature.

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

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

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

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

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

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

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

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

28 (h) Have final authority to approve the architecture of all
29 buildings, plans, designs, types of construction, major repairs and
30 designs of landscaping.

31 9. The deputy manager for compliance and code enforcement
32 shall ~~{serve}~~ :

33 (a) *Serve* as the building official for all buildings and structures
34 on property of the State or held in trust for any division of the State
35 Government ~~{H}~~ ; and

36 (b) *Consult with an agency or official that is considering*
37 *adoption of a regulation described in sections 4, 5 or 8 to 11,*
38 *inclusive, of this act and provide recommendations regarding how*
39 *the regulation, as it applies to buildings and structures on property*
40 *of this State or held in trust for any division of the State*
41 *Government, may be made consistent with other regulations which*
42 *apply to such buildings or structures.*



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:

Before the State Board of Health may adopt any regulation concerning the construction, maintenance, operation or safety of a building, structure or other property in 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. 5. Chapter 449 of NRS is hereby amended by adding thereto a new section to read as follows:

Before the State Department may adopt any regulation concerning the construction, maintenance, operation or safety of a building, structure or other property in 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.



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1 **Sec. 6.** NRS 449.250 is hereby amended to read as follows:
2 449.250 NRS 449.250 to 449.430, inclusive, **and section 5 of**
3 **this act** may be cited as the Nevada Health Facilities Assistance Act.

4 **Sec. 7.** NRS 449.260 is hereby amended to read as follows:
5 449.260 As used in NRS 449.250 to 449.430, inclusive **H** ,
6 **and section 5 of this act:**

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

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

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

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

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

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

43 7. "Nonprofit health facility" means any health facility owned
44 and operated by a corporation or association, no part of the net



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1 earnings of which inures or may lawfully inure to the benefit of any
2 private shareholder or natural person.

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

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

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

11 *Before the Division may adopt any regulation concerning the*
12 *construction, maintenance, operation or safety of a building,*
13 *structure or other property in this State, the Division shall consult*
14 *with the deputy manager for compliance and code enforcement for*
15 *the purposes of subsection 9 of NRS 341.100.*

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

18 *Before the Division may adopt any regulation concerning the*
19 *construction, maintenance, operation or safety of a building,*
20 *structure or other property in this State, the Division shall consult*
21 *with the deputy manager for compliance and code enforcement for*
22 *the purposes of subsection 9 of NRS 341.100.*

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

25 *Before the State Forester Firewarden may adopt any*
26 *regulation concerning the construction, maintenance, operation*
27 *or safety of a building, structure or other property in this State, the*
28 *State Forester Firewarden shall consult with the deputy manager*
29 *for compliance and code enforcement for the purposes of*
30 *subsection 9 of NRS 341.100.*

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

33 *Before the State Fire Marshal may adopt any regulation*
34 *concerning the construction, maintenance, operation or safety of a*
35 *building, structure or other property in this State that is a state-*
36 *owned building or facility, the State Fire Marshal shall consult*
37 *with the deputy manager for compliance and code enforcement for*
38 *the purposes of subsection 9 of NRS 341.100.*

39 Sec. 12. (Deleted by amendment.)

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

