

ASSEMBLY BILL NO. 160—ASSEMBLYWOMAN SWANK

PREFILED FEBRUARY 13, 2017

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to energy efficiency in certain state buildings. (BDR 58-725)

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 energy; requiring the State Public Works Division of the Department of Administration to conduct an evaluation on installing alternatives to window replacement before replacing windows in certain public buildings; extending the maximum length of the terms of certain performance, lease-purchase and installment-purchase contracts; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 **Section 1** of this bill requires the State Public Works Division of the
2 Department of Administration to conduct an evaluation on the feasibility of using
3 alternatives to window replacement before the Division replaces windows in certain
4 public buildings and to consult with the Office of Historic Preservation of the State
5 Department of Conservation and Natural Resources when making such an
6 evaluation of a public building that is at least 50 years old. **Section 1** further
7 requires the Division to use an alternative to window replacement if the potential
8 savings from use of the alternative exceed the costs of the alternative, except if
9 otherwise recommended by the Office of Historic Preservation as to a public
10 building that is at least 50 years old. **Section 1** exempts the Division from
11 performing such an evaluation before replacing windows in a state prison facility or
12 institution or windows that are broken.

13 Existing law authorizes certain state agencies to enter into a performance
14 contract with a qualified service company for the purchase and installation of one
15 or more operating cost-savings measures, including modifications to windows, to
16 reduce costs related to energy, water and the disposal of waste, and related labor
17 costs. (NRS 333A.075) Existing law provides that the term of such a performance
18 contract may not exceed 15 years after the date on which the work required by the
19 performance contract is completed. (NRS 333A.040, 333A.100) Existing law also
20 provides that the terms of certain installment-purchase and lease-purchase contracts



entered into to finance a performance contract may not exceed 15 years after the date on which the work required by the installment-purchase or lease-purchase contract is completed. (NRS 333A.0902) Under existing law, the maximum permissible length of the terms of such performance contracts entered into by local governments is 25 years. (NRS 332.380) Sections 1.3 and 1.7 of this act increase the maximum permissible length of the terms of performance, installment-purchase and lease-purchase contracts entered into by authorized state agencies to 20 years after the date on which the work required by the performance, installment-purchase or lease-purchase contract is completed.

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

Section 1. Chapter 701B of NRS is hereby amended by adding thereto a new section to read as follows:

1. When considering window replacement in public buildings, the State Public Works Division of the Department of Administration shall, except as otherwise provided in subsection 3, evaluate alternatives to window replacement, including, without limitation:

- (a) Weather stripping;*
- (b) Interior window surface film;*
- (c) Insulating cellular shades;*
- (d) Exterior storm windows;*
- (e) Interior window panels; or*
- (f) Any combination of alternatives listed in paragraphs (a) to (e), inclusive.*

2. An evaluation conducted pursuant to subsection 1 must include the cost of such alternatives to window replacements and potential savings from each alternative, including, without limitation, energy savings. Except as otherwise provided in subsection 4, if the Division determines that the potential savings from the use of an alternative to window replacement exceed the costs of the alternative, the Division must use the alternative in lieu of window replacement.

3. The Division is not required to conduct an evaluation pursuant to subsection 1 before replacing:

- (a) The windows in a state prison facility or institution; or*
- (b) A broken window.*

4. When evaluating whether to replace the windows or use an alternative to window replacement pursuant to subsection 1 in a public building that is at least 50 years old, the Division must consult with the Office of Historic Preservation of the State Department of Conservation and Natural Resources. The Division is not required to use an alternative to window replacement in a



1 *public building that is at least 50 years old if the Office of Historic*
2 *Preservation recommends against using the alternative.*

3 *5. As used in this section, "public building" means any*
4 *building to which the provisions of NRS 341.1405 to 341.148,*
5 *inclusive, apply.*

6 **Sec. 1.3.** NRS 333A.0902 is hereby amended to read as
7 follows:

8 333A.0902 In connection with any installment-purchase
9 contract or lease-purchase contract entered into to finance a
10 performance contract, the Board may:

11 1. Grant a security interest in any property that is the subject of
12 the installment-purchase contract or lease-purchase contract and
13 execute an instrument to evidence such a security interest, including,
14 without limitation, a deed of trust, a leasehold interest deed of trust,
15 a mortgage or a financing agreement.

16 2. Offer certificates of participation.

17 3. If the installment-purchase contract or lease-purchase
18 contract involves an improvement to property owned by the State of
19 Nevada or the using agency, enter into a lease of the property to
20 which the improvement will be made and any property that is
21 adjacent to that property if the installment-purchase contract or
22 lease-purchase contract:

23 (a) Except as otherwise provided in NRS 333A.0916, has a term
24 of not more than ~~15~~ 20 years beyond the date on which
25 construction of the work required by the installment-purchase
26 contract or lease-purchase contract is completed; and

27 (b) Provides for rental payments that approximate the fair
28 market rental of the property before the improvement is made, as
29 determined by the Board at the time the parties enter into the lease,
30 which must be paid if the installment-purchase contract or lease-
31 purchase contract terminates before the expiration of the lease
32 because the Legislature fails to appropriate money for payments due
33 pursuant to the installment-purchase contract or lease-purchase
34 contract.

35 ➤ A lease entered into pursuant to this subsection may provide for
36 nominal rental payments to be paid pursuant to the lease before the
37 installment-purchase contract or lease-purchase contract terminates.

38 4. Enter into any other agreement, contract or arrangement that
39 the Board determines would be beneficial to the purpose of the
40 installment-purchase contract or lease-purchase contract, including,
41 without limitation, contracts for professional services, trust
42 indentures, paying agent agreements and contracts of insurance.



1 **Sec. 1.7.** NRS 333A.100 is hereby amended to read as
2 follows:

3 333A.100 1. Notwithstanding any provision of this chapter to
4 the contrary, a performance contract entered into pursuant to this
5 chapter does not create a debt for the purposes of Section 3 of
6 Article 9 of the Nevada Constitution.

7 2. Except as otherwise provided in this section, the term of a
8 performance contract may extend beyond the biennium in which the
9 contract is executed, provided that the performance contract
10 contains a provision which states that all obligations of the State
11 under the performance contract are extinguished at the end of any
12 fiscal year if the Legislature fails to provide an appropriation to the
13 using agency for the ensuing fiscal year for payments to be made
14 under the performance contract. If the Legislature fails to
15 appropriate money to a using agency for a performance contract,
16 there is no remedy against the State, except that if a security interest
17 in any property was created pursuant to the performance contract,
18 the holder of such a security interest may enforce the security
19 interest against that property. Except as otherwise provided in NRS
20 333A.0916, the term of a performance contract must not exceed ~~15~~
21 **20** years after the date on which the work required by the
22 performance contract is completed.

23 3. The length of a performance contract may reflect the useful
24 life of the operating cost-savings measure being installed or
25 purchased under the performance contract.

26 **Sec. 2.** NRS 383.021 is hereby amended to read as follows:

27 383.021 1. The Office of Historic Preservation is hereby
28 created.

29 2. The Office shall:

30 (a) Encourage, plan and coordinate historic preservation and
31 archeological activities within the State, including programs to
32 survey, record, study and preserve or salvage cultural resources.

33 (b) Compile and maintain an inventory of cultural resources in
34 Nevada deemed significant by the Administrator.

35 (c) Designate repositories for the materials that comprise the
36 inventory.

37 (d) Provide staff assistance to the Commission.

38 (e) *Assist the State Public Works Division of the Department of*
39 *Administration in conducting the evaluation required by section 1*
40 *of this act with respect to a building that is at least 50 years old,*
41 *including, without limitation, making a recommendation*
42 *regarding the use of an alternative to window replacement based*
43 *upon whether the use of the alternative is consistent with the goal*
44 *of historic preservation.*



- 1 3. The Comstock Historic District Commission is within the
2 Office.
3 **Sec. 3.** This act becomes effective on July 1, 2017.

