

ASSEMBLY BILL NO. 476—ASSEMBLYMEN BENITEZ-THOMPSON,
KRAMER AND PETERS

MARCH 25, 2019

Referred to Committee on Growth and Infrastructure

SUMMARY—Revises provisions concerning affordable housing.
(BDR 25-1119)

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

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted-material] is material to be omitted.

AN ACT relating to affordable housing; creating the Advisory Committee on Housing; prescribing the membership, powers and duties of the Advisory Committee; creating the Special Committee on Private Activity Bonds; prescribing the membership, powers and duties of the Committee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under the law as it existed between 1987 and 2017, there existed in the Housing Division of the Department of Business and Industry an Advisory Committee on Housing with the power and duty to review and provide to the Director of the Department and the Administrator of the Division advice, recommendations and other commentary regarding certain matters relating to housing. (former NRS 319.173) The Advisory Committee was abolished in 2017. **Section 1** of this bill recreates the Advisory Committee. In addition to reestablishing the Advisory Committee's former powers and duties, **section 1** authorizes the Advisory Committee to provide advice and recommendations to the Special Committee on Private Activity Bonds created by **section 3** of this bill concerning needs and priorities for the allocation of private activity bond authority to finance affordable housing projects.

Under the Internal Revenue Code, states and local governments are allowed to finance certain projects that primarily benefit or are used by a private entity, but have some public benefit, through the issuance of bonds known as private activity bonds. If the bonds are issued for certain private activities specified in federal law, known as qualified private activities, the bondholders are not required to pay federal income taxes on the interest that the bondholders earn on the bonds. (26 U.S.C. §§ 103, 141) Examples of qualified private activities include multifamily rental projects, airports and student loans. (26 U.S.C. §§ 142-145, 1394) For some



* A B 4 7 6 *

of those qualified private activities, federal law places an annual limit on the total dollar amount of tax-exempt private activity bonds that can be issued in each state, which is known as the "state ceiling." In 2018, for example, Nevada's state ceiling was roughly \$315 million. Each state is authorized to allocate its state ceiling among state and local governmental agencies and other authorized issuers. An allocation of the state ceiling to an issuer is known as the issuer's "volume cap." (26 U.S.C. § 146) Under existing law, the volume cap for State Government is 50 percent of the state ceiling for each calendar year, while the remaining 50 percent of the state ceiling is allocated to local governments in proportion to the percentage that the population of the local government bears to the entire population of Nevada. Existing law also provides that an entity's volume cap for any calendar year may be augmented or diminished in accordance with regulations adopted by the Director of the Department of Business and Industry. (NRS 348A.020)

Under existing law, the Director of the Department of Business and Industry is responsible for regulating private activity bonds in this State. (NRS 348A.040) Existing regulations establish a committee to serve in an advisory capacity to the Director with respect to private activity bonds. (NAC 348A.280) **Section 3** creates in statute the Special Committee on Private Activity Bonds and prescribes its membership. **Section 4** of this bill requires the Committee to approve or deny: (1) any proposal by the Director to allocate or reserve for a particular purpose a portion of the volume cap for private activity bonds established for the Director; (2) any proposal by the Director to issue or authorize the issuance of private activity bonds from the volume cap established for the Director; and (3) any action that has the effect of augmenting or diminishing any volume cap established for the Director or any local government. **Section 4** also requires the Committee to consider any matter concerning private activity bonds referred to it by the Director and authorizes the Committee to advise the Governor, the State Board of Finance or the Director on any matter concerning private activity bonds, if requested. Finally, **section 4** requires the Committee to consult with the Advisory Committee on Housing, created by **section 1**, not less than annually concerning the needs and any recommended priorities for the use of private activity bonds for the financing of affordable housing.

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

Section 1. Chapter 319 of NRS is hereby amended by adding thereto a new section to read as follows:

1. There is hereby created the Advisory Committee on Housing to review and provide to the Director, the Administrator and the Special Committee on Private Activity Bonds created by section 3 of this act advice, recommendations and other commentary regarding:

(a) The investment of money or issuance of obligations by the Division.

(b) The development of new programs or the improvement of existing programs of the Division.

(c) The improvement of policies and procedures of the Division, including those relating to the dissemination of relevant



1 information to persons who participate in or are otherwise
2 interested in programs of the Division.

3 (d) The administration of the Account for Low-Income
4 Housing created by NRS 319.500.

5 (e) Needs and priorities for the allocation of private activity
6 bond authority to finance affordable housing projects.

7 (f) Any other matters referred to the Advisory Committee by
8 the Director or Administrator.

9 2. The Advisory Committee consists of:

10 (a) The Director or his or her representative;

11 (b) One member who is a member of the Senate appointed by
12 the Majority Leader of the Senate;

13 (c) One member who is a member of the Assembly appointed
14 by the Speaker of the Assembly;

15 (d) Eight members appointed by the Director. The Director
16 shall appoint to the Advisory Committee:

17 (1) One representative of an association of mortgage
18 companies in this State, selected from a list of names submitted to
19 the Director by that association.

20 (2) One representative of persons engaged in residential
21 construction in this State.

22 (3) One representative of banks, savings and loan
23 associations or savings banks in this State who is knowledgeable
24 about making mortgage loans.

25 (4) One member who is knowledgeable about the sale and
26 marketing or the management of real property in this State.

27 (5) One member who is knowledgeable about the
28 development or management of nonprofit housing in this State.

29 (6) One member who is knowledgeable about housing
30 programs sponsored, administered or supported by local
31 governments in this State.

32 (7) One member who is knowledgeable about federal
33 housing programs administered by the Division.

34 (8) One member who is an advocate of affordable housing.

35 ➡ The members of the Advisory Committee are not entitled to any
36 additional compensation for their service in that capacity.

37 3. An appointed member of the Advisory Committee serves a
38 term of 2 years and until his or her successor is appointed. An
39 appointed member may be reappointed.

40 4. A vacancy in the appointed membership of the Committee
41 must be filled in the same manner as the original appointment for
42 the remainder of the unexpired term.

43 5. The Director or his or her representative shall serve as the
44 Chair of the Advisory Committee. The Advisory Committee shall
45 meet at least once each calendar quarter, and at the call of the



1 *Chair or upon the written request of the Administrator or a*
2 *majority of the members of the Advisory Committee.*

3 6. *The Administrator shall submit annually to the Advisory*
4 *Committee for its review, comment and recommendations a work*
5 *plan for the activities of the Division for the succeeding calendar*
6 *year. The work plan must include:*

7 (a) *The expected needs for financing and anticipated demand*
8 *for tax credits and sources of funding for each of the programs*
9 *administered by the Division.*

10 (b) *Strategies for meeting those needs and demands.*

11 (c) *A plan for resolving any anticipated problems in carrying*
12 *out those strategies.*

13 (d) *A plan for the allocation of the resources of the Division,*
14 *including the allotment of its employees' time, to carry out the*
15 *work plan in such a manner as to serve the entire area of the State*
16 *adequately.*

17 (e) *Any other matters which are critical to the success of any*
18 *programs administered by the Division.*

19 7. *Before the:*

20 (a) *Investment of money of the Division pursuant to NRS*
21 *319.171; or*

22 (b) *Submission of findings to the State Board of Finance*
23 *pursuant to subsection 4 of NRS 319.323,*

24 *the Administrator shall submit a plan of investment or a plan of*
25 *financing, together with any proposed findings relating to that*
26 *plan, to the Advisory Committee for its review and comment.*

27 8. *The Administrator shall report to the Advisory Committee*
28 *at least once each calendar quarter on the activities of the Division*
29 *and the implementation of the Division's work plan for that year.*

30 9. *As used in this section:*

31 (a) *"Director" means the Director of the Department of*
32 *Business and Industry.*

33 (b) *"Private activity bond" has the meaning ascribed to it in*
34 *NRS 348A.010.*

35 **Sec. 2.** Chapter 348A of NRS is hereby amended by adding
36 thereto the provisions set forth as sections 3 and 4 of this act.

37 **Sec. 3. 1. The Special Committee on Private Activity Bonds**
38 **is hereby created.**

39 2. *The Committee consists of:*

40 (a) *Seven voting members as follows:*

41 (1) *The Director, or his or her designee, who shall serve as*
42 *Chair of the Committee;*

43 (2) *The Executive Director of the Office of Economic*
44 *Development, or his or her designee;*



(3) One member of the general public appointed by the Governor;

(4) One member, who is not a Legislator, appointed by the Majority Leader of the Senate;

(5) One member, who is not a Legislator, appointed by the Speaker of the Assembly;

(6) One member, who is not a Legislator, appointed by the Minority Leader of the Senate; and

(7) One member, who is not a Legislator, appointed by the Minority Leader of the Assembly; and

(b) Two nonvoting members as follows:

(1) One member appointed by the Nevada League of Cities; and

(2) One member appointed by the Nevada Association of Counties.

3. An appointed member of the Committee serves a term of 2 years and until his or her successor is appointed. An appointed member may be reappointed.

4. A vacancy in the appointed membership of the Committee must be filled in the same manner as the original appointment for the remainder of the unexpired term.

5. Each member of the Committee:

(a) Serves without compensation; and

(b) While engaged in the business of the Committee, is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

6. A member of the Committee who is an officer or employee of this State or a political subdivision of this State must be relieved from his or her duties without loss of regular compensation to prepare for and attend meetings of the Committee and perform any work necessary to carry out the duties of the Committee in the most timely manner practicable. A state agency or political subdivision of this State shall not require an officer or employee who is a member of the Committee to:

(a) Make up the time he or she is absent from work to carry out his or her duties as a member of the Committee; or

(b) Take annual leave or compensatory time for the absence.

7. The Committee shall meet at the call of the Chair as frequently as required to perform its duties, but not less than twice each year.

8. A majority of the voting members of the Committee constitutes a quorum for the transaction of business, and a majority of a quorum present at any meeting is sufficient for any official action taken by the Committee.



1 **9. The Director shall provide the Committee with**
2 **administrative support.**

3 **Sec. 4. The Committee shall:**

4 **1. Approve or deny:**

5 **(a) Any proposal by the Director to allocate or reserve for a**
6 **particular purpose a portion of the volume cap for any calendar**
7 **year established for the Director pursuant to subsection 1 of**
8 **NRS 348A.020;**

9 **(b) Any proposal by the Director to issue or authorize the**
10 **issuance of private activity bonds attributable to the volume cap**
11 **for any calendar year established for the Director pursuant to**
12 **subsection 1 of NRS 348A.020; and**

13 **(c) Any action that has the effect of augmenting or**
14 **diminishing any volume cap for any calendar year established for**
15 **the Director or any local government pursuant to NRS 348A.020.**

16 **2. Consult with the Advisory Committee on Housing, created**
17 **by section 1 of this act, not less than annually concerning the**
18 **needs and any recommended priorities for the use of private**
19 **activity bonds for the financing of affordable housing.**

20 **3. Consider any matter concerning private activity bonds**
21 **referred to it by the Director and may, if requested, advise the**
22 **Governor, the State Board of Finance or the Director on any**
23 **matter concerning private activity bonds.**

24 **Sec. 5. NRS 348A.010 is hereby amended to read as follows:**

25 348A.010 As used in NRS 348A.010 to 348A.040, inclusive ~~[2-]~~
26 **, and sections 3 and 4 of this act:**

27 **1. "Committee" means the Special Committee on Private**
28 **Activity Bonds created by section 3 of this act.**

29 **2. "Director" means the Director of the Department of**
30 **Business and Industry.**

31 ~~[2-]~~ **3. "Private activity bond" has the meaning ascribed to it in**
32 **26 U.S.C. § 141.**

33 ~~[3-]~~ **4. "State ceiling" has the meaning ascribed to it in 26**
34 **U.S.C. § 146(d).**

35 ~~[4-]~~ **5. "Volume cap" has the meaning ascribed to it in 26**
36 **U.S.C. § 146(b) and (c).**

37 **Sec. 6. As soon as practicable on or after July 1, 2019:**

38 **1. The Majority Leader of the Senate, Speaker of the Assembly**
39 **and Director of the Department of Business and Industry shall make**
40 **the appointments to the Advisory Committee on Housing required**
41 **by subsection 2 of section 1 of this act; and**

42 **2. The Governor, Majority Leader of the Senate, Speaker of the**
43 **Assembly, Minority Leader of the Senate, Minority Leader of the**
44 **Assembly, Nevada League of Cities and Nevada Association of**
45 **Counties shall make the appointments to the Special Committee on**



1 Private Activity Bonds required by subsection 2 of section 3 of this
2 act.

3 **Sec. 7.** Any regulation adopted by the Administrator of the
4 Housing Division of the Department of Business and Industry
5 concerning the governance of the Advisory Committee on Housing
6 as it existed before July 1, 2017, and which expired by operation of
7 law on July 1, 2017, that is not in conflict with the provisions of
8 section 1 of this act:

9 1. Shall be deemed to have been adopted by the Administrator
10 on July 1, 2019; and

11 2. Remains in effect until repealed or replaced by the
12 Administrator.

13 **Sec. 8.** This act becomes effective on July 1, 2019.

③



* A B 4 7 6 *