

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.

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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 affordable housing; creating the Advisory Committee on Housing; prescribing the membership, powers and duties of the Advisory Committee; authorizing the Advisory Committee to request the drafting of not more than 1 legislative measure for each regular session of the Legislature; creating the Private Activity Bond Council; prescribing the membership, powers and duties of the Council; 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 and revises its membership, powers and duties. Among other duties, **section 1** requires the Advisory Committee to annually prepare and submit to the Private Activity Bond Council created by **section 3** of this bill a report concerning housing that addresses, without limitation, community needs for housing in the State, housing trends and housing goals for this State.

Existing law prescribes the number of legislative measures which may be requested by various departments, agencies and other entities of this State for each regular session of the Legislature. (NRS 218D.100-218D.220) **Section 1.5** of this bill authorizes the Advisory Committee on Housing to request for each regular session of the Legislature the drafting of not more than one legislative measure which relates to matters within the scope of the Committee.



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 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 Private Activity Bond Council and prescribes its membership. **Section 4** of this bill requires the Council to advise the Governor, the State Board of Finance or the Director on the allocation of the state ceiling for the issuance of private activity bonds during any calendar year and on any other matter concerning private activity bonds, if requested. Finally, **section 4** requires the Council to receive and consider the annual report concerning housing submitted by the Advisory Committee on Housing, created by **section 1**.

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, consisting of nine members as set forth in subsection 2.

2. The Advisory Committee consists of:

(a) One member who is a Legislator appointed by the Legislative Commission;

(b) One member appointed by the Nevada Rural Housing Authority;

(c) One member appointed by the Southern Nevada Regional Housing Authority;

(d) One member appointed by the Reno Housing Authority;
and

(e) Five members appointed by the Director as follows:



1 (1) One member who is knowledgeable and has experience
2 in supportive housing programs and projects;

3 (2) One member who is representative of builders and
4 developers of multifamily housing projects;

5 (3) One member who is knowledgeable in banking and the
6 financing of housing projects;

7 (4) One member who represents a local community
8 development agency or regional planning agency in southern
9 Nevada; and

10 (5) One member who represents a local community
11 development agency or regional planning agency in northern
12 Nevada.

13 ➤ The members of the Advisory Committee are not entitled to any
14 additional compensation for their service in that capacity.

15 3. A member of the Advisory Committee serves a term of 2
16 years and until his or her successor is appointed. A member may
17 be reappointed for additional terms of 2 years in the same manner
18 as the original appointment.

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

22 5. The members of the Advisory Committee shall select a
23 Chair from among their membership. The term of office of the
24 Chair is 2 years. The Advisory Committee shall meet at least once
25 each calendar quarter, and at the call of the Chair or upon the
26 written request of the Administrator or a majority of the members
27 of the Advisory Committee.

28 6. The Division shall provide administrative support to the
29 Advisory Committee.

30 7. The Advisory Committee shall:

31 (a) Review and comment on:

32 (1) The annual housing progress report compiled by the
33 Division pursuant to NRS 278.235;

34 (2) The annual plan established by the Division for
35 allocating tax credits for low-income housing pursuant to 26
36 U.S.C. § 42; and

37 (3) Any other matter or information submitted to it by the
38 Division.

39 (b) Annually prepare and submit to the Private Activity Bond
40 Council created by section 3 of this act, a report concerning
41 housing that addresses, without limitation:

42 (1) Community needs for housing in the State;

43 (2) Housing trends; and

44 (3) Housing goals for this State.

45 8. As used in this section:



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

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

Sec. 1.5. Chapter 218D of NRS is hereby amended by adding thereto a new section to read as follows:

1. For a regular session, the Advisory Committee on Housing created by section 1 of this act may request the drafting of not more than 1 legislative measure which relates to matters within the scope of the Committee. The request must be submitted to the Legislative Counsel on or before September 1 preceding the regular session.

2. A request made pursuant to this section must be on a form prescribed by the Legislative Counsel. A legislative measure requested pursuant to this section must be prefiled on or before the third Wednesday in November preceding the regular session. A legislative measure that is not prefiled on or before that day shall be deemed withdrawn.

Sec. 1.7. NRS 218D.100 is hereby amended to read as follows:

218D.100 1. The provisions of NRS 218D.100 to 218D.220, inclusive, *and section 1.5 of this act* apply to requests for the drafting of legislative measures for a regular session.

2. Except as otherwise provided by a specific statute, joint rule or concurrent resolution, the Legislative Counsel shall not honor a request for the drafting of a legislative measure if the request:

(a) Exceeds the number of requests authorized by NRS 218D.100 to 218D.220, inclusive, *and section 1.5 of this act* for the requester; or

(b) Is submitted by an authorized nonlegislative requester pursuant to NRS 218D.175 to 218D.220, inclusive, *and section 1.5 of this act* but is not in a subject related to the function of the requester.

3. The Legislative Counsel shall not:

(a) Honor a request to change the subject matter of a request for the drafting of a legislative measure after it has been submitted for drafting.

(b) Honor a request for the drafting of a legislative measure which has been combined in violation of Section 17 of Article 4 of the Nevada Constitution.

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

Sec. 3. 1. The Private Activity Bond Council is hereby created.

2. The Council consists of seven members as follows:



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

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

(c) *One member who is a member of the Senate appointed by the Legislative Commission;*

(d) *One member who is a member of the Assembly appointed by the Legislative Commission;*

(e) *One member appointed by the Nevada League of Cities;*

(f) *One member appointed by the Nevada Association of Counties; and*

(g) *One member appointed by the Director who has experience in financing affordable housing projects.*

3. *An appointed member of the Council serves a term of 2 years and until his or her successor is appointed. An appointed member may be reappointed for additional terms of 2 years in the same manner as the original appointment.*

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

5. *Each member of the Council:*

(a) *Serves without compensation; and*

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

6. *A member of the Council 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 Council and perform any work necessary to carry out the duties of the Council 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 Council 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 Council; or*

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

7. *The Council 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 Council 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 Council.*

9. *The Department of Business and Industry shall provide the Council with administrative support.*



Sec. 4. *The Council shall:*

1. Receive and consider the annual report concerning housing submitted by the Advisory Committee on Housing, created by section 1 of this act;

2. Advise the Governor, the State Board of Finance or the Director on the allocation of the state ceiling for the issuance of private activity bonds during any calendar year; and

3. Upon request, advise the Governor, the State Board of Finance or the Director on any other matter concerning private activity bonds.

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

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

1. "Council" means the Private Activity Bond Council created by section 3 of this act.

2. "Director" means the Director of the Department of Business and Industry.

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

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

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

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

1. The Legislative Commission, Nevada Rural Housing Authority, Southern Nevada Regional Housing Authority, Reno Housing Authority and Director of the Department of Business and Industry shall make the appointments to the Advisory Committee on Housing required by subsection 2 of section 1 of this act; and

2. The Legislative Commission, Nevada League of Cities, Nevada Association of Counties and Director of the Department of Business and Industry shall make the appointments to the Private Activity Bond Council required by subsection 2 of section 3 of this act.

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

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

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



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

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