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FIRST REPRINT

A.B. 280

ASSEMBLY BILL NO. 280—ASSEMBLYWOMEN PETERS;
BILBRAY-AXELROD AND TORRES

MARCH 15, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to public restrooms.
(BDR 54-132)FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 public restrooms; requiring places of public accommodation, public buildings and facilities owned by a public body, certain areas leased by or on behalf of a public body and certain leased areas within a state park that provide a single-stall restroom to the public to make the single-stall restroom as inclusive and accessible as possible to a person of any gender identity or expression; revising provisions relating to the signage for such single-stall restrooms; requiring certain governmental entities to include in their building codes or, if applicable, adopt by ordinance a requirement that certain buildings and facilities used by the public that contain a single-stall restroom which is available to the public be as inclusive and accessible as possible to a person of any gender identity or expression and prohibiting certain signage on such restrooms; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

- 1 Existing law provides that all persons are entitled to the full and equal
- 2 enjoyment of the goods, services, facilities, privileges, advantages and
- 3 accommodations of any place of public accommodation, without discrimination or
- 4 segregation on the ground of race, color, religion, national origin, disability, sexual
- 5 orientation, sex or gender identity or expression. (NRS 651.070) Existing law
- 6 provides that a place of public accommodation means any establishment or place to
- 7 which the public is invited or which is intended for public use, including, without
- 8 limitation, inns, hotels, motels, restaurants, bars, gasoline stations, theaters,



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9 convention centers, bakeries, grocery stores, laundromats, museums, libraries,
10 parks, zoos, nurseries, private schools or universities, day care centers, senior
11 citizen centers, gymnasiums, health spas and bowling alleys. (NRS 651.050) If such
12 a place of public accommodation provides a single-stall restroom to the public,
13 **section 1** of this bill requires the single-stall restroom to be as inclusive and
14 accessible as possible to a person of any gender identity or expression, including,
15 without limitation, by allowing: (1) a parent or guardian of a child to enter the
16 single-stall restroom with the child; (2) a person with a disability to enter the
17 single-stall restroom with his or her caregiver, if applicable; and (3) a person of any
18 gender identity or expression to use the single-stall restroom as needed. **Section 1:**
19 (1) prohibits the owner or operator of the place of public accommodation from
20 labeling the single-stall restroom with signage that indicates the restroom is for a
21 specific gender; and (2) authorizes the labeling of the single-stall restroom as
22 available for use by any person, including, without limitation, by posting a sign
23 which reads "All-Gender Bathroom" or "All-Accessible Bathroom." **Section 1**
24 provides that a single-stall restroom is a restroom that: (1) is intended for individual
25 use; and (2) contains a single toilet or a single urinal or contains both a toilet and a
26 urinal.

27 **Sections 2, 3 and 15** of this bill make conforming changes relating to the
28 applicability of **section 1** and the placement of **section 1** in the Nevada Revised
29 Statutes. **Section 4** of this bill provides that any person who deprives, interferes
30 with or punishes another person for accessing such single-stall restrooms is guilty
31 of a misdemeanor. **Section 5** of this bill provides that any person who deprives,
32 interferes with or punishes another person for accessing such single-stall restrooms
33 is liable to the person whose access is affected for actual damages that are
34 recoverable by a civil action. **Section 6** of this bill authorizes any county or
35 incorporated city of this State to adopt a local ordinance that prohibits an
36 infringement of a person's rights, privileges or access to such single-stall restrooms.
37 In addition to these changes, **section 1** allows any person who believes he or she
38 has been denied full and equal use of a single-stall restroom because of
39 discrimination or segregation to file a complaint to that effect with the Nevada
40 Equal Rights Commission. (NRS 651.110)

41 **Section 9** of this bill requires each county, city and any other governmental
42 entity that adopts a building code, including school districts in larger counties, to
43 include in its respective building code a requirement that any single-stall restroom
44 made available to the public and contained in a permanent building or facility used
45 by the public and that is constructed on or after October 1, 2021, comply with
46 provisions relating to the inclusivity and accessibility and signage of single-stall
47 restrooms that are identical to the provisions that apply to places of public
48 accommodations in **section 1**. **Section 9** provides that if a county or city has no
49 building code, the county or city is required to adopt such requirements by
50 ordinance. **Sections 7, 8 and 10** of this bill make conforming changes relating to
51 the applicability of the requirements contained in **section 9** as well as the placement
52 of **section 9** in the Nevada Revised Statutes.

53 **Sections 11 and 12** of this bill also make provisions relating to the inclusivity
54 and accessibility and signage of single-stall restrooms that are identical to the
55 provisions that apply to places of public accommodations in **section 1** apply to: (1)
56 a public building or facility owned by a public body that provides a single-stall
57 restroom to the public; and (2) an area leased by or on behalf of a public body and
58 used primarily to provide a service to the public and certain leased areas within a
59 state park. **Section 12** provides that a contract for such a leased area that does not
60 satisfy these requirements which is entered into on or after October 1, 2021, is void
61 and unenforceable. **Section 13** of this bill makes a conforming change relating to
62 the placement of **section 12** in the Nevada Revised Statutes. **Section 14** of this bill
63 authorizes a person to report a violation of **section 12** to the Attorney General, who



is required to notify the public body responsible for the alleged violation. If the public body fails to comply with the provisions of **section 12, section 14** requires the Attorney General to take such action as is necessary to ensure compliance.

Section 15.5 of this bill provides that **sections 4, 5 and 14**, which are the enforcement provisions of this bill, do not become effective until February 1, 2022.

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

Section 1. Chapter 651 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The owner or operator of a place of public accommodation that provides a single-stall restroom to the public shall make the single-stall restroom as inclusive and accessible as possible to a person of any gender identity or expression, including, without limitation, by allowing:

(a) A parent or guardian of a child to enter the single-stall restroom with the child;

(b) A person with a disability to enter the single-stall restroom with his or her caregiver, if applicable; and

(c) A person of any gender identity or expression to use the single-stall restroom as needed.

2. The owner or operator of a place of public accommodation that provides a single-stall restroom to the public:

(a) Shall not label the single-stall restroom with gendered signage; and

(b) May label the single-stall restroom as available for use by any person, including, without limitation, by posting a sign that reads "All-Gender Bathroom" or "All-Accessible Bathroom."

3. As used in this section:

(a) "Caregiver" has the meaning ascribed to it in NRS 449A.306.

(b) "Gendered signage" means any sign posted on a single-stall restroom that uses words or images of a person to denominate sex.

(c) "Single-stall restroom" means a restroom that:

(1) Is intended for individual use; and

(2) Contains:

(I) A single toilet or a single urinal; or

(II) A toilet and a urinal.

Sec. 2. NRS 651.060 is hereby amended to read as follows:

651.060 The provisions of NRS 651.050 to 651.110, inclusive, **and section 1 of this act** do not apply to any private club or other establishment not in fact open to the public, except to the extent that the facilities of such establishment are made available to the



customers or patrons of an establishment within the scope of NRS 651.050.

Sec. 3. NRS 651.065 is hereby amended to read as follows:

651.065 1. Notwithstanding any provision of NRS 651.050 to 651.110, inclusive, **and section 1 of this act**, it is not unlawful and is not a ground for a civil action for any place of public accommodation to offer differential pricing, discounted pricing or special offers based on sex to promote or market the place of public accommodation.

2. As used in this section, "place of public accommodation" has the meaning ascribed to it in NRS 651.050.

Sec. 4. NRS 651.080 is hereby amended to read as follows:

651.080 1. Any person is guilty of a misdemeanor who:

(a) Withholds, denies, deprives or attempts to withhold, deny or deprive any other person of any right , ~~for~~ privilege **or access** secured by NRS 651.070 or 651.075 ~~for~~ **or section 1 of this act**;

(b) Intimidates, threatens, coerces or attempts to threaten, intimidate or coerce any other person for the purpose of interfering with any right , ~~for~~ privilege **or access** secured by NRS 651.070 or 651.075 ~~for~~ **or section 1 of this act**; or

(c) Punishes or attempts to punish any other person for exercising or attempting to exercise any right , ~~for~~ privilege **or access** secured by NRS 651.070 or 651.075 ~~for~~ **or section 1 of this act**.

2. A prosecution for violation of a local ordinance authorized by NRS 651.100 is a bar to any prosecution pursuant to this section.

Sec. 5. NRS 651.090 is hereby amended to read as follows:

651.090 1. Any person who:

(a) Withholds, denies, deprives or attempts to withhold, deny or deprive any other person of any right , ~~for~~ privilege **or access** secured by NRS 651.070 or 651.075 ~~for~~ **or section 1 of this act**;

(b) Intimidates, threatens, coerces or attempts to threaten, intimidate or coerce any other person for the purpose of interfering with any right , ~~for~~ privilege **or access** secured by NRS 651.070 or 651.075 ~~for~~ **or section 1 of this act**; or

(c) Punishes or attempts to punish any other person for exercising or attempting to exercise any right , ~~for~~ privilege **or access** secured by NRS 651.070 or 651.075 ~~for~~ **or section 1 of this act**,

➔ is liable to the person whose rights pursuant to NRS 651.070 or 651.075 **or section 1 of this act** are affected for actual damages, to be recovered by a civil action in a court in and for the county in which the infringement of civil rights occurred or in which the defendant resides.

2. In an action brought pursuant to this section, the court may:



(a) Grant any equitable relief it considers appropriate, including temporary, preliminary or permanent injunctive relief, against the defendant.

(b) Award costs and reasonable attorney's fees to the prevailing party.

Sec. 6. NRS 651.100 is hereby amended to read as follows:

651.100 Any county or incorporated city of this state may adopt a local ordinance prohibiting infringement of the rights, ~~for~~ privileges **or access** secured by NRS 651.070 or 651.075 ~~or~~ **section 1 of this act**, but such an ordinance must not apply to any establishment outside the scope of NRS 651.050 and 651.060 or impose a penalty more severe than that provided by NRS 651.075 or 651.080. A prosecution pursuant to NRS 651.075 or 651.080 is a bar to any prosecution pursuant to an ordinance authorized by this section.

Sec. 7. NRS 244.3675 is hereby amended to read as follows:

244.3675 Subject to the limitations set forth in NRS 244.368, 278.02315, 278.580, 278.582, 278.584, 278.586, 444.340 to 444.430, inclusive, and 477.030, **and section 9 of this act**, the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.

2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada or the Nevada System of Higher Education.

Sec. 8. NRS 268.413 is hereby amended to read as follows:

268.413 Subject to the limitations contained in NRS 244.368, 278.02315, 278.580, 278.582, 278.584, 278.586, 444.340 to 444.430, inclusive, and 477.030, **and section 9 of this act**, the city council or other governing body of an incorporated city may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city.

2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, those fees do not apply to the State of Nevada or the Nevada System of Higher Education.



Sec. 9. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each county, city and any other governmental entity that adopts a building code shall include in its respective building code a requirement that any single-stall restroom made available to the public which is contained in a permanent building or facility used by the public that is constructed on or after October 1, 2021, be as inclusive and accessible as possible to a person of any gender identity or expression, including, without limitation, by allowing:

(a) A parent or guardian of a child to enter the single-stall restroom with the child;

(b) A person with a disability to enter the single-stall restroom with his or her caregiver, if applicable; and

(c) A person of any gender identity or expression to use the single-stall restroom as needed.

➤ The owner or operator of such a permanent building or facility that contains a single-stall restroom which is available to the public shall not label the single-stall restroom with gendered signage, but may label the single-stall restroom as available for use by any person, including, without limitation, by posting a sign that reads “All-Gender Bathroom” or “All-Accessible Bathroom.”

2. If a county or a city has no building code, it shall adopt by ordinance a requirement that any single-stall restroom made available to the public which is contained in a permanent building or facility used by the public that is constructed on or after October 1, 2021, be as inclusive and accessible as possible as provided in subsection 1.

3. The provisions of this section apply, without limitation, to any school district for which a building code is adopted pursuant to subsection 2 of NRS 393.110.

4. As used in this section:

(a) “Caregiver” has the meaning ascribed to it in NRS 449A.306.

(b) “Gendered signage” means any sign posted on a single-stall restroom that uses words or images of a person to denominate sex.

(c) “Single-stall restroom” means a restroom that:

(1) Is intended for individual use; and

(2) Contains:

(I) A single toilet or a single urinal; or

(II) A toilet and a urinal.

Sec. 10. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, **and section 9 of this act**, unless the context otherwise requires, the



words and terms defined in NRS 278.0103 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Sec. 11. NRS 338.180 is hereby amended to read as follows:

338.180 1. The Legislature of the State of Nevada declares that:

(a) The primary purpose of this section is to provide, subject to the limitations set forth in this section, for the removal and elimination of architectural barriers to persons with a physical handicap in public buildings and facilities designed after July 1, 1973, in order to encourage and facilitate the employment of persons with a physical handicap and to make public buildings accessible to and usable by persons with a physical handicap; and

(b) It is the intent of the Legislature that insofar as possible all buildings and facilities used by the public be accessible to, and functional for, persons with a physical handicap, without loss of function, space or facility where the general public is concerned.

2. All plans and specifications for the construction of public buildings and facilities owned by a public body must, after July 1, 1973, provide facilities and features for persons with a physical handicap so that buildings which are normally used by the public are constructed with entrance ramps, toilet facilities, drinking fountains, doors and public telephones accessible to and usable by persons with a physical handicap. In addition, all plans and specifications for the construction or alteration of public buildings and facilities owned by a public body must comply with the applicable requirements of the:

(a) Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto, including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations;

(b) Minimum Guidelines and Requirements for Accessible Design, 36 C.F.R. §§ 1190.1 et seq.; and

(c) Fair Housing Act, 42 U.S.C. § 3604, and the regulations adopted pursuant thereto.

➤ The requirements of paragraph (a) of this subsection are not satisfied if the plans and specifications comply solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

3. All public bodies shall, in the design, construction and alteration of public buildings and facilities comply with the applicable requirements of the:

(a) Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the regulations adopted pursuant thereto,



including, without limitation, the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations;

(b) Minimum Guidelines and Requirements for Accessible Design, 36 C.F.R. §§ 1190.1 et seq.; and

(c) Fair Housing Act, 42 U.S.C. § 3604, and the regulations adopted pursuant thereto.

➤ The requirements of paragraph (a) of this subsection are not satisfied if the public body complies solely with the Uniform Federal Accessibility Standards set forth in Appendix A of Part 101-19.6 of Title 41 of the Code of Federal Regulations.

4. In each public building and facility owned by a public body, each entrance to a corridor which leads to a toilet facility must be marked with a sign which:

(a) Conforms to the requirements related to signage contained in §§ 4.30 et seq. of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations; and

(b) Uses symbols, raised letters and Braille to:

(1) Identify the toilet facility and the gender of persons who may use the toilet facility; and

(2) If the toilet facility is for the exclusive use of persons of one gender:

(I) Indicate that the toilet facility is for the exclusive use of persons of that gender; and

(II) Provide direction to a toilet facility that may be used by persons of the other gender.

5. *A public body that owns a public building or facility which provides a single-stall restroom to the public shall make the single-stall restroom as inclusive and accessible as possible to a person of any gender identity or expression, including, without limitation, by allowing:*

(a) A parent or guardian of a child to enter the single-stall restroom with the child;

(b) A person with a disability to enter the single-stall restroom with his or her caregiver, if applicable; and

(c) A person of any gender identity or expression to use the single-stall restroom as needed.

➤ *The public body that owns the public building or facility which provides a single-stall restroom to the public shall not label the single-stall restroom with gendered signage and may label the single-stall restroom as available for use by any person, including, without limitation, by posting a sign which reads “All-Gender Bathroom” or “All-Accessible Bathroom.”*



6. The Division shall verify that all public buildings and facilities owned by the State of Nevada conform with the requirements of this section. Each political subdivision shall verify that all public buildings and facilities owned by the political subdivision conform with the requirements of this section.

~~6.7~~ 7. A person may report a violation of this section to the Attorney General.

~~6.7~~ 8. Upon receiving a report pursuant to subsection ~~6.7~~ 7, the Attorney General shall notify the public body responsible for the alleged violation. Not later than 30 days after receiving such a notification, the public body shall:

(a) Present evidence to the Attorney General that it is in compliance with this section; or

(b) Begin any action necessary to comply with the requirements of this section and notify the Attorney General of the date on which it will be in compliance with those requirements.

~~6.8~~ 9. If the public body responsible for the alleged violation fails to comply with this section, the Attorney General shall take such action as is necessary to ensure compliance with this section, including, without limitation, commencing proceedings in a court of competent jurisdiction, if appropriate.

10. *As used in this section:*

(a) *"Caregiver" has the meaning ascribed to it in NRS 449A.306.*

(b) *"Gendered signage" means any sign posted on a single-stall restroom that uses words or images of a person to denominate sex.*

(c) *"Single-stall restroom" means a restroom that:*

(1) *Is intended for individual use; and*

(2) *Contains:*

(I) *A single toilet or a single urinal; or*

(II) *A toilet and a urinal.*

Sec. 12. Chapter 444 of NRS is hereby amended by adding thereto a new section to read as follows:

1. *The owner or operator of an area that is leased by or on behalf of a public body and is used primarily to provide a service to the public and which provides a single-stall restroom to the public, or such a leased area that is part of a complex of leased areas that provides a single-stall restroom to the public within the common area of the complex, must make the single-stall restroom as inclusive and accessible as possible to a person of any gender identity or expression, including, without limitation, by allowing:*

(a) *A parent or guardian of a child to enter the single-stall restroom with the child;*



(b) A person with a disability to enter the single-stall restroom with his or her caregiver, if applicable; and

(c) A person of any gender identity or expression to use the single-stall restroom as needed.

2. The owner or operator of the leased area that provides a single-stall restroom to the public:

(a) Shall not label the single-stall restroom with gendered signage; and

(b) May label the single-stall restroom as available for use by any person, including, without limitation, by posting a sign that reads “All-Gender Bathroom” or “All-Accessible Bathroom.”

3. The provisions of this section apply to such a leased area within a state park that provides a single-stall restroom to the public.

4. A contract for such a leased area that does not satisfy the requirements of this section which is entered into on or after October 1, 2021, is void and unenforceable.

5. As used in this section:

(a) “Caregiver” has the meaning ascribed to it in NRS 449A.306.

(b) “Gendered signage” means any sign posted on a single-stall restroom that uses words or images of a person to denominate sex.

(c) “Single-stall restroom” means a restroom that:

(1) Is intended for individual use; and

(2) Contains:

(I) A single toilet or a single urinal; or

(II) A toilet and a urinal.

Sec. 13. NRS 444.047 is hereby amended to read as follows:

444.047 As used in this section and NRS 444.048 and 444.049 **H and section 12 of this act**, unless the context otherwise requires, “public body” means a governmental body of the State of Nevada, including, without limitation, an agency, department, division or political subdivision of the State of Nevada, or a local governmental body, including, without limitation, a county, city, municipality, township, school district or quasi-municipal corporation.

Sec. 14. NRS 444.049 is hereby amended to read as follows:

444.049 1. A person may report a violation of NRS 444.048 **or section 12 of this act** to the Attorney General of the State of Nevada.

2. Upon receiving a report pursuant to subsection 1, the Attorney General shall notify the public body responsible for the alleged violation. Not later than 30 days after receiving such notification, the public body shall:



(a) Present evidence to the Attorney General that it is in compliance with NRS 444.048 ~~H~~ or section 12 of this act; or

(b) Begin any action necessary to comply with the requirements of NRS 444.048 or section 12 of this act and notify the Attorney General of the date on which it will be in compliance with those requirements.

3. If the public body fails to comply with NRS 444.048 ~~H~~ or section 12 of this act, the Attorney General shall take such action as is necessary to ensure compliance with NRS 444.048 ~~H~~ or section 12 of this act, including, without limitation, commencing proceedings in a court of competent jurisdiction, if appropriate.

Sec. 15. NRS 447.135 is hereby amended to read as follows:

447.135 1. Each owner, lessor, lessee or operator of a public accommodation shall mark each entrance to a corridor in the public accommodation which leads to a toilet facility with a sign which:

(a) Conforms to the requirements related to signage contained in §§ 4.30 et seq. of the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities set forth in Appendix A of Part 36 of Title 28 of the Code of Federal Regulations; and

(b) Uses symbols, raised letters and Braille to ~~H~~ , except as otherwise provided in section 1 of this act:

(1) Identify the toilet facility and the gender of persons who may use the toilet facility; and

(2) If the toilet facility is for the exclusive use of persons of one gender:

(I) Indicate that the toilet facility is for the exclusive use of persons of that gender; and

(II) Provide direction to a toilet facility that may be used by persons of the other gender.

2. A person may report a violation of subsection 1 to the Attorney General.

3. Upon receiving a report pursuant to subsection 2, the Attorney General shall notify the owner, lessor, lessee or operator of the public accommodation of the alleged violation. Not later than 30 days after receiving such a notification, the owner, lessor, lessee or operator of the public accommodation shall:

(a) Present evidence to the Attorney General that the public accommodation is in compliance with subsection 1; or

(b) Begin any action necessary to comply with the requirements of subsection 1 and notify the Attorney General of the date on which the public accommodation will be in compliance with those requirements.

4. If the owner, lessor, lessee or operator of the public accommodation fails to comply with subsection 1, the Attorney General shall take such action as is necessary to ensure compliance



1 with subsection 1, including, without limitation, commencing
2 proceedings in a court of competent jurisdiction, if appropriate.

3 5. As used in this section, “public accommodation” has the
4 meaning ascribed to it in 42 U.S.C. § 12181.

5 **Sec. 15.5.** 1. This section and sections 1, 2, 3, 6 to 13,
6 inclusive, and 15 of this act become effective on October 1, 2021.

7 2. Sections 4, 5 and 14 of this act become effective on
8 February 1, 2022.

