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ASSEMBLY BILL NO. 59—COMMITTEE  
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE STATE PUBLIC WORKS DIVISION)

PREFILED DECEMBER 20, 2012

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Referred to Committee on Government Affairs

SUMMARY—Revises various provisions relating to the State Public Works Division of the Department of Administration. (BDR 28-282)

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

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

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AN ACT relating to public works; formalizing and renaming existing components of the State Public Works Division of the Department of Administration to create a Public Works - Compliance and Code Enforcement Section and a Public Works - Professional Services Section within the Division; providing regulatory authority for the Administrator of the Division and the State Public Works Board of the Division; eliminating a requirement that the Division periodically inspect buildings owned by the Nevada System of Higher Education; eliminating a requirement that a proposal for the construction of a state building include operating costs for personnel and other expenses of operation; repealing a requirement to report to the Legislature annually on projects of construction of state buildings that are financed by certain bonds or obligations; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

- 1 Existing law creates the State Public Works Division, consisting of the
- 2 Administrator of the Division, the Buildings and Grounds Section and the State
- 3 Public Works Board, within the Department of Administration. (NRS 341.017)
- 4 **Section 1** of this bill formalizes and renames existing components of the State
- 5 Public Works Division to create a Public Works - Compliance and Code



6 Enforcement Section and a Public Works - Professional Services Section within the  
7 Division. **Section 2** of this bill provides that these two sections will each be led by  
8 one of the existing deputy administrators.

9 Existing law grants the Administrator such powers as may be necessary to  
10 fulfill his or her functions. (NRS 341.110) **Section 4** of this bill requires the  
11 Administrator to adopt such regulations as he or she determines are necessary for  
12 the Buildings and Grounds Section and to recommend to the Board such  
13 regulations as he or she determines are necessary for the Public Works -  
14 Compliance and Code Enforcement Section and the Public Works - Professional  
15 Services Section. **Section 4** also requires the Board to consider the Administrator's  
16 recommendations and to adopt such regulations as it determines are necessary for  
17 the Public Works - Compliance and Code Enforcement Section and the Public  
18 Works - Professional Services Section.

19 Existing law requires the Division to periodically inspect all state buildings and  
20 physical plant facilities, including all buildings at the University of Nevada, Reno,  
21 and the University of Nevada, Las Vegas. (NRS 341.128) **Section 5** of this bill  
22 eliminates the requirement that all buildings at those universities be periodically  
23 inspected and excludes any building owned by the Nevada System of Higher  
24 Education from the periodic inspections of the Division.

25 Existing law requires that a proposal for the construction of a state building  
26 include operating costs for personnel and other expenses of operation for the  
27 building. (NRS 341.151) **Section 7** of this bill eliminates that requirement.

28 Existing law requires that the Division compile a report concerning projects of  
29 construction of state buildings that are financed by general obligation bonds,  
30 revenue bonds or medium-term obligations for each fiscal year and submit this  
31 report annually to the Legislature. (NRS 341.129) **Section 14** of this bill repeals  
32 that requirement.

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

1 **Section 1.** NRS 341.017 is hereby amended to read as follows:  
2 341.017 1. There is hereby created the State Public Works  
3 Division of the Department of Administration.

4 2. The Division consists of:

5 (a) The Administrator;

6 (b) The Buildings and Grounds Section; ~~and~~

7 (c) *The Public Works - Compliance and Code Enforcement*  
8 *Section;*

9 (d) *The Public Works - Professional Services Section; and*

10 (e) The State Public Works Board.

11 3. The Division shall, subject to the administrative supervision  
12 of the Director of the Department, administer the provisions of this  
13 chapter and NRS 331.010 to 331.145, inclusive.

14 **Sec. 2.** NRS 341.100 is hereby amended to read as follows:

15 341.100 1. The Administrator and the Deputy Administrator  
16 ~~{for compliance and code enforcement}~~ of the *Public Works -*  
17 *Compliance and Code Enforcement Section* serve at the pleasure  
18 of the Director of the Department.



1 2. The Administrator shall appoint:

2 (a) A Deputy Administrator ~~{for professional services}~~ *of the*  
3 *Public Works - Professional Services Section*; and

4 (b) A Deputy Administrator of the Buildings and Grounds  
5 Section.

6 ➔ Each deputy administrator appointed pursuant to this subsection  
7 serves at the pleasure of the Administrator.

8 3. The Administrator shall recommend and the Director shall  
9 appoint a Deputy Administrator ~~{for compliance and code~~  
10 ~~enforcement}~~ *of the Public Works - Compliance and Code*  
11 *Enforcement Section*. The Deputy Administrator appointed  
12 pursuant to this subsection has the final authority in the  
13 interpretation and enforcement of any applicable building codes.

14 4. The Administrator may appoint such other technical and  
15 clerical assistants as may be necessary to carry into effect the  
16 provisions of this chapter.

17 5. The Administrator and each deputy administrator are in the  
18 unclassified service of the State. Except as otherwise provided in  
19 NRS 284.143, the Administrator and each deputy administrator shall  
20 devote his or her entire time and attention to the business of the  
21 office and shall not pursue any other business or occupation or hold  
22 any other office of profit.

23 6. The Administrator and the Deputy Administrator ~~{for~~  
24 ~~professional services}~~ *of the Public Works - Professional Services*  
25 *Section* must each be a licensed professional engineer pursuant to  
26 the provisions of chapter 625 of NRS or an architect registered  
27 pursuant to the provisions of chapter 623 of NRS.

28 7. The Deputy Administrator ~~{for compliance and code~~  
29 ~~enforcement}~~ *of the Public Works - Compliance and Code*  
30 *Enforcement Section* must have a comprehensive knowledge of  
31 building codes and a working knowledge of the principles of  
32 engineering or architecture as determined by the Administrator.

33 8. The Administrator shall:

34 (a) Serve as the Secretary of the Board.

35 (b) Manage the daily affairs of the Division.

36 (c) Represent the Board and the Division before the Legislature.

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

40 (e) Select architects, engineers and contractors.

41 (f) Accept completed projects.

42 (g) Submit in writing to the Director of the Department, the  
43 Governor and the Interim Finance Committee a monthly report  
44 regarding all public works projects which are a part of the approved  
45 capital improvement program. For each such project, the monthly



1 report must include, without limitation, a detailed description of the  
2 progress of the project which highlights any specific events,  
3 circumstances or factors that may result in:

4 (1) Changes in the scope of the design or construction of the  
5 project or any substantial component of the project which increase  
6 or decrease the total square footage or cost of the project by 10  
7 percent or more;

8 (2) Increased or unexpected costs in the design or  
9 construction of the project or any substantial component of the  
10 project which materially affect the project;

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

13 (4) Any other problems which may adversely affect the  
14 design or construction of the project or any substantial component  
15 of the project.

16 (h) Have final authority to approve the architecture of all  
17 buildings, plans, designs, types of construction, major repairs and  
18 designs of landscaping.

19 9. The Deputy Administrator ~~{for compliance and code~~  
20 ~~enforcement}~~ *of the Public Works - Compliance and Code*  
21 *Enforcement Section* shall:

22 (a) Serve as the building official for all buildings and structures  
23 on property of the State or held in trust for any division of the State  
24 Government; and

25 (b) Consult with an agency or official that is considering  
26 adoption of a regulation described in NRS 446.942, 449.345,  
27 455C.115, 461.173, 472.105 or 477.0325 and provide  
28 recommendations regarding how the regulation, as it applies to  
29 buildings and structures on property of this State or held in trust for  
30 any division of the State Government, may be made consistent with  
31 other regulations which apply to such buildings or structures.

32 **Sec. 3.** NRS 341.105 is hereby amended to read as follows:

33 341.105 1. When acting in the capacity of building official  
34 pursuant to subsection 9 of NRS 341.100, the Deputy Administrator  
35 ~~{for compliance and code enforcement}~~ *of the Public Works -*  
36 *Compliance and Code Enforcement Section* or his or her  
37 designated representative may issue an order to compel the cessation  
38 of work on all or any portion of a building or structure based on  
39 health or safety reasons or for violations of applicable building  
40 codes or other laws or regulations.

41 2. If a person receives an order issued pursuant to subsection 1,  
42 the person shall immediately cease work on the building or structure  
43 or portion thereof.

44 3. Any person who willfully refuses to comply with an order  
45 issued pursuant to subsection 1 or who willfully encourages another



1 person to refuse to comply or assists another person in refusing to  
2 comply with such an order is guilty of a misdemeanor and shall be  
3 punished as provided in NRS 193.150. Any penalties collected  
4 pursuant to this subsection must be deposited with the State  
5 Treasurer for credit to the State General Fund.

6 4. In addition to the criminal penalty set forth in subsection 3,  
7 the Deputy Administrator ~~{for compliance and code enforcement}~~ *of*  
8 *the Public Works - Compliance and Code Enforcement Section*  
9 may impose an administrative penalty of not more than \$1,000 per  
10 day for each day that a person violates subsection 3.

11 5. If a person wishes to contest an order issued to the person  
12 pursuant to subsection 1, the person may bring an action in district  
13 court. The court shall give such a proceeding priority over other  
14 civil matters that are not expressly given priority by law. An action  
15 brought pursuant to this subsection does not stay enforcement of the  
16 order unless the district court orders otherwise.

17 6. If a person refuses to comply with an order issued pursuant  
18 to subsection 1, the Deputy Administrator ~~{for compliance and code~~  
19 ~~enforcement}~~ *of the Public Works - Compliance and Code*  
20 *Enforcement Section* may bring an action in the name of the State  
21 of Nevada in district court to compel compliance and to collect any  
22 administrative penalties imposed pursuant to subsection 4. The court  
23 shall give such a proceeding priority over other civil matters that are  
24 not expressly given priority by law. Any attorney's fees and costs  
25 awarded by the court in favor of the State and any penalties  
26 collected in the action must be deposited with the State Treasurer for  
27 credit to the State General Fund.

28 7. No right of action exists in favor of any person by reason of  
29 any action or failure to act on the part of the Division, Director of  
30 the Department, Administrator, Board or the Deputy Administrator  
31 ~~{for compliance and code enforcement}~~ *of the Public Works -*  
32 *Compliance and Code Enforcement Section* or any officers,  
33 employees or agents of the Division in carrying out the provisions of  
34 this section.

35 8. As used in this section, "person" includes a government and  
36 a governmental subdivision, agency or instrumentality.

37 **Sec. 4.** NRS 341.110 is hereby amended to read as follows:

38 341.110 *1.* In general, the Administrator shall have such  
39 powers as may be necessary to enable him or her to fulfill his or her  
40 functions and to carry out the purposes of this chapter.

41 *2. The Administrator shall:*

42 *(a) Adopt such regulations as he or she determines are*  
43 *necessary to carry out and ensure compliance with the provisions*  
44 *of this chapter and any other provision of law which governs the*  
45 *duties of the Buildings and Grounds Section; and*



1       ***(b) Recommend to the Board the adoption of such regulations***  
2 ***as he or she determines are necessary to carry out and ensure***  
3 ***compliance with the provisions of this chapter and any other***  
4 ***provision of law which governs the duties of the Public Works -***  
5 ***Compliance and Code Enforcement Section or the Public Works -***  
6 ***Professional Services Section.***

7       **3. The Board shall:**

8       ***(a) Consider the recommendations of the Administrator when***  
9 ***adopting regulations; and***

10       ***(b) Adopt such regulations as it determines are necessary to***  
11 ***carry out and ensure compliance with the provisions of this***  
12 ***chapter and any other provision of law which governs the duties of***  
13 ***the Public Works - Compliance and Code Enforcement Section or***  
14 ***the Public Works - Professional Services Section.***

15       **Sec. 5.** NRS 341.128 is hereby amended to read as follows:

16       341.128 The Division shall ***periodically***, inspect all state  
17 buildings ~~periodically, including all buildings at the University of~~  
18 ~~Nevada, Reno, and at the University of Nevada, Las Vegas,]~~ and all  
19 physical plant facilities at all state institutions ~~+~~, ***excluding any***  
20 ***building owned by any component of the Nevada System of Higher***  
21 ***Education and used for any purpose related to the System.*** Reports  
22 of all inspections, including findings and recommendations, must be  
23 submitted to the appropriate state agencies and, if the Division finds  
24 any matter of serious concern in a report, it shall submit that report  
25 to the Legislative Commission.

26       **Sec. 6.** NRS 341.145 is hereby amended to read as follows:

27       341.145 1. The Administrator:

28       ***(a) Shall determine whether any rebates are available from a***  
29 ***public utility for installing devices in any state building which are***  
30 ***designed to decrease the use of energy in the building. If such a***  
31 ***rebate is available, the Administrator shall apply for the rebate.***

32       ***(b) Shall solicit bids for and let all contracts for new***  
33 ***construction or major repairs.***

34       ***(c) May negotiate with the lowest responsible and responsive***  
35 ***bidder on any contract to obtain a revised bid if:***

36       ***(1) The bid is less than the appropriation made by the***  
37 ***Legislature for that building project; and***

38       ***(2) The bid does not exceed the relevant budget item for that***  
39 ***building project as established by the Administrator by more than 10***  
40 ***percent.***

41       ***(d) May reject any or all bids.***

42       ***(e) After the contract is let, shall supervise and inspect***  
43 ***construction and major repairs. The cost of supervision and***  
44 ***inspection must be financed from the capital construction program***  
45 ***approved by the Legislature.***



1 (f) Shall obtain prior approval from the Interim Finance  
2 Committee before authorizing any change in the scope of the design  
3 or construction of a project as that project was authorized by the  
4 Legislature, if the change increases or decreases the total square  
5 footage or cost of the project by 10 percent or more.

6 (g) Except for changes that require prior approval pursuant to  
7 paragraph (f), may authorize change orders, before or during  
8 construction:

9 (1) In any amount, where the change represents a reduction  
10 in the total awarded contract price.

11 (2) Except as otherwise provided in subparagraph (3), not to  
12 exceed in the aggregate 15 percent of the total awarded contract  
13 price, where the change represents an increase in that price.

14 (3) In any amount, where the total awarded contract price is  
15 less than \$50,000 and the change represents an increase not  
16 exceeding the amount of the total awarded contract price.

17 (4) In any amount, where additional money was authorized  
18 or appropriated by the Legislature and issuing a new contract would  
19 not be in the best interests of the State.

20 (h) Shall specify in any contract with a design professional the  
21 period within which the design professional must prepare and  
22 submit to the Administrator a change order that has been authorized  
23 by the design professional. As used in this paragraph, "design  
24 professional" means a person with a professional license or  
25 certificate issued pursuant to chapter 623, 623A or 625 of NRS.

26 (i) Has final authority to accept each building or structure, or  
27 any portion thereof, on property of the State or held in trust for any  
28 division of the State Government as completed or to require  
29 necessary alterations to conform to the contract, and to file the  
30 notice of completion for the building or structure.

31 (j) Shall obtain prior approval from the Legislature or the  
32 Interim Finance Committee, if the Legislature is not in session,  
33 before cancelling a project authorized by the Legislature or delaying  
34 the commencement or completion of such a project beyond the  
35 period for which money for the project was authorized.

36 2. The Deputy Administrator ~~{for compliance and code~~  
37 ~~enforcement}~~ *of the Public Works - Compliance and Code*  
38 *Enforcement Section*, when acting as building official pursuant to  
39 subsection 9 of NRS 341.100, has the final authority in:

40 (a) Requiring necessary alterations to conform to any building  
41 codes adopted by the Board; and

42 (b) Issuing a certificate of occupancy for a building or structure.

43 3. In acting upon a proposed change in the scope of the design  
44 or construction of a project pursuant to paragraph (f) of subsection 1  
45 or a proposed cancellation or delay of a project pursuant to



1 paragraph (j) of subsection 1, the Interim Finance Committee shall  
2 consider, among other things:

3 (a) The reason provided by the Administrator for the proposed  
4 change in the scope of the design or construction or the cancellation  
5 or delay of the project;

6 (b) The current need for the project; and

7 (c) The intent of the Legislature in originally approving the  
8 project.

9 **Sec. 7.** NRS 341.151 is hereby amended to read as follows:

10 341.151 1. The Division shall provide for a system of  
11 accounting for the total costs of state buildings throughout their  
12 expected useful life, taking into account all expenses of maintenance  
13 and operation.

14 2. Each proposal for the construction of a state building must  
15 include:

16 (a) Figures showing the final total cost of the building, which is  
17 the sum of:

18 (1) Initial construction costs; and

19 (2) Operating costs for the expected useful life of the  
20 building, including maintenance, heating, lighting ~~{;}~~ and air-  
21 conditioning ; ~~{; personnel and other expenses of operation;}~~ and

22 (b) A statement of the proposed source of funding for the final  
23 total cost of the building.

24 **Sec. 8.** NRS 446.942 is hereby amended to read as follows:

25 446.942 Before the State Board of Health may adopt any  
26 regulation concerning the construction, maintenance, operation or  
27 safety of a building, structure or other property in this State, the  
28 Board shall consult with the Deputy Administrator ~~{for compliance~~  
29 ~~and code enforcement}~~ *of the Public Works - Compliance and*  
30 *Code Enforcement Section* for the purposes of subsection 9 of  
31 NRS 341.100.

32 **Sec. 9.** NRS 449.345 is hereby amended to read as follows:

33 449.345 Before the State Department may adopt any regulation  
34 concerning the construction, maintenance, operation or safety of a  
35 building, structure or other property in this State, the State  
36 Department shall consult with the ~~{deputy manager for compliance~~  
37 ~~and code enforcement}~~ *Deputy Administrator of the Public Works -*  
38 *Compliance and Code Enforcement Section* for the purposes of  
39 subsection 9 of NRS 341.100.

40 **Sec. 10.** NRS 455C.115 is hereby amended to read as follows:

41 455C.115 Before the Division may adopt any regulation  
42 concerning the construction, maintenance, operation or safety  
43 of a building, structure or other property in this State, the Division  
44 shall consult with the Deputy Administrator ~~{for compliance~~  
45 ~~and code enforcement}~~ *of the Public Works - Compliance*





1 *and Code Enforcement Section* for the purposes of subsection 9 of  
2 NRS 341.100.

3 **Sec. 11.** NRS 461.173 is hereby amended to read as follows:  
4 461.173 Before the Division may adopt any regulation  
5 concerning the construction, maintenance, operation or safety of a  
6 building, structure or other property in this State, the Division  
7 shall consult with the Deputy Administrator ~~{for compliance~~  
8 ~~and code enforcement}~~ *of the Public Works - Compliance and*  
9 *Code Enforcement Section* for the purposes of subsection 9 of  
10 NRS 341.100.

11 **Sec. 12.** NRS 472.105 is hereby amended to read as follows:  
12 472.105 Before the State Forester Firewarden may adopt any  
13 regulation concerning the construction, maintenance, operation or  
14 safety of a building, structure or other property in this State, the  
15 State Forester Firewarden shall consult with the ~~{deputy manager for~~  
16 ~~compliance and code enforcement}~~ *Deputy Administrator of the*  
17 *Public Works - Compliance and Code Enforcement Section* for the  
18 purposes of subsection 9 of NRS 341.100.

19 **Sec. 13.** NRS 477.0325 is hereby amended to read as follows:  
20 477.0325 Before the State Fire Marshal may adopt any  
21 regulation concerning the construction, maintenance, operation or  
22 safety of a building, structure or other property in this State  
23 that is a state-owned building or facility, the State Fire Marshal shall  
24 consult with the ~~{deputy manager for compliance and code~~  
25 ~~enforcement}~~ *Deputy Administrator of the Public Works -*  
26 *Compliance and Code Enforcement Section* for the purposes of  
27 subsection 9 of NRS 341.100.

28 **Sec. 14.** NRS 341.129 is hereby repealed.

29 **Sec. 15.** This act becomes effective upon passage and  
30 approval.

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### TEXT OF REPEALED SECTION

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#### **341.129 Duty to submit to Legislature annual report on projects of construction of state buildings financed by bonds or other obligations.**

1. The Division shall, for each fiscal year, compile a report concerning projects of construction of state buildings that are financed by general obligation bonds, revenue bonds or medium-term obligations.

2. The report required to be compiled pursuant to subsection 1 must include:



(a) The source and amount of money received from the bonds and obligations during the fiscal year;

(b) A list of the projects completed during the fiscal year, including, without limitation, any change in the estimated cost of such a project and any change in the date for completion for such a project; and

(c) A list of projects under construction, the estimated cost of each of those projects, the date for completion of each of those projects and any changes in the estimated cost or date for completion of those projects.

3. The Division shall submit, in any format including an electronic format, a copy of the report compiled pursuant to subsection 1 on or before February 1 of the year next succeeding the period to which the report pertains to the Director of the Legislative Counsel Bureau for distribution to each regular session of the Legislature.





