

3/5/2009

Recommended amendments to SB 42 by NDOT, NDOW and NDSP (latest language in **RED**);

- A. Amend NRS 341.100(8)(h) by adding to the end of this subsection after the word “landscaping” **in line 2**, “...*associated with said buildings not otherwise exempted from SPWB jurisdiction under provisions of NRS 341.141(1)(a)&(b).*”
- B. Amend NRS 341.100(9)(a)&(b), as proposed in the SPWB’s amended SB 42, by adding to the end of both these subsections, “...*except all maintenance projects, site improvements, unenclosed or normally unoccupied buildings or structures administered by the Nevada Department of Transportation, Department of Wildlife or Division of State Parks, and buildings or structures exempted under provisions of NRS 341.141(1)(a)&(b); said exemptions are not intended to otherwise supersede requirements that buildings, structures, or other improvements comply with applicable standards or codes.*”
- C. Amend NRS 341.141(1)(a) by adding to the end of this subsection “...*as determined by the Nevada Department of Transportation.*”
- D. Amend NRS 341.145(9) & **(10)** by adding to the end of this subsection, “...*except all maintenance projects, site improvements, unenclosed or routinely unoccupied buildings or structures administered by the Nevada Department of Transportation, Department of Wildlife, or Division of State Parks and those buildings or structures exempted under provisions of NRS 341.141(1)(a)&(b). However, these exemptions are not to otherwise supersede requirements that maintenance, alterations or construction of buildings, structures, or other improvements comply with applicable standards or codes.*”
- E. Amend NRS 341.153(2) by inserting **at the end of this subsection**, “...*except those buildings administered by the Nevada Department of Transportation, Department of Wildlife, or Division of State Parks that are unenclosed, normally unoccupied, or exempted under provisions of NRS 341.141(1)(a)&(b); said exemptions are not intended to otherwise supersede any requirements that said buildings comply with applicable codes.*”

Highlighted in **RED**, following are the amendments to SB 42/ NRS 341 proposed by NDOT, NDOW and NDSP, while SPWB’s REVISED amendments are highlighted in **GREEN**:

**NRS 341.100 Manager, deputies and assistants: Appointments; classification; qualifications; duties.**

1. The Board shall appoint a Manager and a deputy manager for compliance and code enforcement, each of whom must be approved by the Governor. The Manager and the deputy manager for compliance and code enforcement serve at the pleasure of the Board and the Governor.

2. The Manager, with the approval of the Board, shall appoint:

(a) A deputy manager for professional services; and

(b) A deputy manager for administrative, fiscal and constructional services. Each deputy manager appointed pursuant to this subsection serves at the pleasure of the Manager.

3. The Manager may appoint such other technical and clerical assistants as may be necessary to carry into effect the provisions of this chapter.

4. The Manager and each deputy manager are in the unclassified service of the State. Except as otherwise provided in [NRS 284.143](#), the Manager and each deputy manager shall devote his entire time and attention to the business of his office and shall not pursue any other business or occupation or hold any other office of profit.

5. The Manager and the deputy manager for professional services must each be a licensed professional engineer pursuant to the provisions of [chapter 625](#) of NRS or an architect registered pursuant to the provisions of [chapter 623](#) of NRS.

6. The deputy manager for administrative, fiscal and constructional services must have a comprehensive knowledge of the principles of administration and a working knowledge of the principles of engineering or architecture as determined by the Board.

7. The deputy manager for compliance and code enforcement must have a comprehensive knowledge of building codes and a working knowledge of the principles of engineering or architecture as determined by the Board.

8. The Manager shall:

(a) Serve as the Secretary of the Board.

(b) Manage the daily affairs of the Board.

(c) Represent the Board before the Legislature.

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

(e) Make recommendations to the Board for the selection of architects, engineers and contractors.

(f) Make recommendations to the Board concerning the acceptance of completed projects.

~~The Board shall transmit to the deputy manager for compliance and code enforcement any such recommendations which are relevant to the duties of that deputy manager as set forth in subsection 9.~~

(g) Submit in writing to the Board, the Governor and the Interim Finance Committee a monthly report regarding all public works projects which are a part of the approved capital improvement program. For each such project, the monthly report must include, without limitation, a detailed description of the progress of the project which highlights any specific events, circumstances or factors that may result in:

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

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

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

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

(h) Have final authority to approve the architecture of all buildings, plans, designs, types of construction, major repairs and designs of landscaping *associated with said buildings not otherwise exempted from SPWB jurisdiction under provisions of NRS 341.141(1)(a)&(b).*

9. The deputy manager for compliance and code enforcement:

a. *Shall* serve as the building official for all buildings and structures on property of the State or held in trust for any division of the State Government *except all maintenance projects, site improvements, unenclosed or normally unoccupied buildings or structures administered by the Nevada Department of Transportation, Department of Wildlife or Division of State Parks, and buildings or structures exempted under provisions of NRS 341.141(1)(a)&(b); said exemptions are not intended to otherwise supersede requirements that buildings, structures, or other improvements comply with applicable standards or codes;* and

b. *Make recommendations to the Board concerning the acceptance of completed projects, except all maintenance projects, site improvements, unenclosed or normally unoccupied buildings or structures administered by the Nevada Department of Transportation, Department of Wildlife or Division of State Parks, and buildings or structures exempted under provisions of NRS 341.141(1)(a)&(b); said exemptions are not intended to otherwise supersede requirements that buildings, structures, or other improvements comply with applicable standards or codes.*

### **NRS 341.141 Engineering and architectural services to be furnished by Board for buildings constructed on state property or with legislative appropriation; exceptions.**

1. The Board shall furnish engineering and architectural services to the Nevada System of Higher Education and all other state departments, boards or commissions charged with the construction of any building constructed on state property or for which the money is appropriated by the Legislature, except:

(a) Buildings used in maintaining highways, *as determined by the Nevada Department of Transportation.*

(b) Improvements, other than nonresidential buildings with more than 1,000 square feet in floor area, made:

(1) In state parks by the State Department of Conservation and Natural Resources; or

(2) By the Department of Wildlife; and

(c) Buildings on property controlled by other state agencies if the Board has delegated its authority in accordance with [NRS 341.119](#). The Board of Regents of the University of Nevada and all other state departments, boards or commissions shall use those services.

2. The services must consist of:

(a) Preliminary planning;

- (b) Designing;
- (c) Estimating of costs; and
- (d) Preparation of detailed plans and specifications.

**NRS 341.145 Powers and duties of Board: Design, construction and repairs.** The Board:

1. Shall determine whether any rebates are available from a public utility for installing devices in any state building which are designed to decrease the use of energy in the building. If such a rebate is available, the Board shall apply for the rebate.
2. Shall solicit bids for and let all contracts for new construction or major repairs.
3. May negotiate with the lowest responsible and responsive bidder on any contract to obtain a revised bid if:
  - (a) The bid is less than the appropriation made by the Legislature for that building project; and
  - (b) The bid does not exceed the relevant budget item for that building project as established by the Board by more than 10 percent.
4. May reject any or all bids.
5. After the contract is let, shall supervise and inspect construction and major repairs. The cost of supervision and inspection must be financed from the capital construction program approved by the Legislature.
6. Shall obtain prior approval from the Interim Finance Committee before authorizing any change in the scope of the design or construction of a project as that project was authorized by the Legislature, if the change increases or decreases the total square footage or cost of the project by 10 percent or more.
7. Except for changes that require prior approval pursuant to subsection 6, may authorize change orders, before or during construction:
  - (a) In any amount, where the change represents a reduction in the total awarded contract price.
  - (b) Except as otherwise provided in paragraph (c), not to exceed in the aggregate 15 percent of the total awarded contract price, where the change represents an increase in that price.
  - (c) In any amount, where the total awarded contract price is less than \$50,000 and the change represents an increase not exceeding the amount of the total awarded contract price.
  - (d) In any amount, where additional money was authorized or appropriated by the Legislature and issuing a new contract would not be in the best interests of the State.
8. Shall specify in any contract with a design professional the period within which the design professional must prepare and submit to the Board a change order that has been authorized by the design professional. As used in this subsection, "design professional" means a person with a professional license or certificate issued pursuant to [chapter 623](#), [623A](#) or [625](#) of NRS.
9. Has final authority to accept each building or structure, or any portion thereof, on property of the State or held in trust for any division of the State Government as completed or to require necessary alterations to conform to the contract or ~~to codes adopted by the Board, and~~ to file a notice of completion ~~and certificate of occupancy~~ for the building or structure, ***except all maintenance projects, site improvements, unenclosed or normally unoccupied buildings or structures administered by the Nevada Department of Transportation, Department of Wildlife, or Division of State Parks, and those buildings or structures exempted under provisions of NRS 341.141(1)(a)&(b). However, these exemptions are not intended to otherwise supersede***

*requirements that maintenance, alterations or construction of buildings, structures, or other improvements comply with applicable standards or codes.*

10. Has final authority to accept each building or structure, or any portion thereof, on property of the State or held in trust for any division of the State Government as completed or to require necessary alterations to conform to codes adopted by the Board, and to issue the certificate of occupancy for the building or structure *except all maintenance projects, site improvements, unenclosed or normally unoccupied buildings or structures administered by the Nevada Department of Transportation, Department of Wildlife, or Division of State Parks, and those buildings or structures exempted under provisions of NRS 341.141(1)(a)&(b). However, these exemptions are not intended to otherwise supersede requirements that maintenance, alterations or construction of buildings, structures, or other improvements comply with applicable standards or codes.*

### **NRS 341.153 Public policy of State declared.**

1. The Legislature hereby finds as facts:

(a) That the construction of public buildings is a specialized field requiring for its successful accomplishment a high degree of skill and experience not ordinarily acquired by public officers and employees whose primary duty lies in some other field.

(b) That this construction involves the expenditure of large amounts of public money which, whatever their particular constitutional, statutory or governmental source, involve a public trust.

(c) That the application by state agencies of conflicting standards of performance results in wasteful delays and increased costs in the performance of public works.

2. The Legislature therefore declares it to be the policy of this State that all construction of buildings upon property of the State or held in trust for any division of the State Government be supervised by, and final authority for its completion and acceptance vested in, the Board as provided in [NRS 341.141](#) to [341.148](#), inclusive, *except those buildings administered by the Nevada Department of Transportation, Department of Wildlife, or Division of State Parks that are unenclosed, normally unoccupied, or exempted under provisions of NRS 341.141(1)(a)&(b); said exemptions are not intended to otherwise supersede any requirements that said buildings comply with applicable codes.*”

### **NRS 341.119 Delegation of authority of Board to state agency.**

1. Upon the request of the head of a state agency, the Board may delegate to that agency any of the authority granted the Board pursuant to NRS 341.141 to 341.248 inclusive, *except NRS 341.145(10).*

2. This section does not limit any of the authority of the Legislature when the Legislature is in regular or special session or the Interim Finance Committee when the Legislature is not in regular or special session to consult with the Board concerning a construction project or to approve the advance planning of a project.