

ASSEMBLY BILL NO. 424—ASSEMBLYMEN FREEMAN, GIBBONS,
HUMKE, LESLIE, EVANS AND ANDERSON

MARCH 8, 1999

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to process of regional planning in certain counties.
(BDR 22-1362)

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

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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 regional planning; providing in skeleton form for various changes to the process of regional planning in certain counties; requiring a local government that is within an area covered by a comprehensive regional plan to conform its actions, ordinances and regulations to the plan; providing for the resolution of disputes regarding conformance with a comprehensive regional plan; creating an advisory committee on plans for capital improvements; revising provisions regarding plans for capital improvements; changing the composition of the regional planning commission; expanding contents of a comprehensive regional plan; authorizing the governing body of a local government to use certain land use controls and principles of zoning; expanding the scope of activities for which impact fees may be charged; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 278 of NRS is hereby amended by adding thereto
2 the provisions set forth as sections 2, 3 and 4 of this act.
3 **Sec. 2. 1. *Each action taken by a local government relating to***
4 ***development, zoning, the subdivision of land or capital improvements***
5 ***must conform to the comprehensive regional plan. In adopting an***
6 ***ordinance or regulation relating to development, zoning, the subdivision***
7 ***of land or capital improvements, a local government shall make a***
8 ***specific finding that the ordinance or regulation conforms to the***
9 ***comprehensive regional plan. Within 1 year after the adoption of the***
10 ***comprehensive regional plan by the governing board pursuant to NRS***

1 278.0276, and at least once every 5 years thereafter, a local government
2 shall review and, if necessary, amend its existing ordinances and
3 regulations to ensure their conformity with the provisions of the
4 comprehensive regional plan. If an ordinance or regulation adopted by a
5 local government is inconsistent with a provision of the comprehensive
6 regional plan, the provision of the comprehensive regional plan controls.

7 2. The regional planning commission shall adopt regulations
8 concerning the resolution of disputes between persons, local governments
9 and the regional planning commission regarding whether an action
10 taken by or an ordinance or resolution adopted by a local government
11 conforms to the provisions of the comprehensive regional plan as
12 required pursuant to subsection 1.

13 **Sec. 3. 1.** In addition to the elements that must be included within
14 the comprehensive regional plan pursuant to NRS 278.0274, the regional
15 planning commission may add to the comprehensive regional plan maps
16 and other documents that depict separately each area within the region
17 in which a full range of urban services:

18 (a) Is provided;

19 (b) Is not provided but will be provided within the next 20 years; or

20 (c) Is not provided and will not be provided within the next 20 years.

21 2. If the regional planning commission adds to the comprehensive
22 regional plan the maps and other documents described in subsection 1,
23 the regional planning commission shall, at least once every 5 years,
24 review and revise the maps and other documents as it determines to be
25 necessary.

26 3. As used in this section, a "full range of urban services" is provided
27 in an area if each of the following is provided in the area:

28 (a) A community water system, as that term is defined in NRS
29 349.980;

30 (b) A sewer system;

31 (c) Public transportation;

32 (d) Police, fire and ambulance service;

33 (e) A drainage system; and

34 (f) Streets and roads.

35 **Sec. 4. 1.** The advisory committee on plans for capital
36 improvements is hereby created. The committee consists of:

37 (a) The director of public works of the county or his designee;

38 (b) The chairman of the water planning commission of the county or
39 his designee;

40 (c) The executive director or other chief executive officer of the
41 regional transportation commission of the county or his designee; and

42 (d) The superintendent of schools of the county school district or his
43 designee.

1 **2. The advisory committee on plans for capital improvements shall**
2 **advise and assist the regional planning commission in regard to the**
3 **preparation of the summary required pursuant to paragraph (d) of**
4 **subsection 5 of NRS 278.0274.**

5 **Sec. 5.** NRS 278.0226 is hereby amended to read as follows:

6 278.0226 The governing body of each local government whose budget
7 includes any expenditure for the acquisition or maintenance of a capital
8 improvement shall annually prepare a plan for capital improvements which
9 conforms with its master plan and which includes at least the 3 ensuing
10 fiscal years but not more than ~~5~~ 10 fiscal years. **The plan for capital**
11 **improvements must identify:**

12 **1. Costs that the local government expects to incur; and**

13 **2. Sources of revenue that the local government will use,**
14 **to acquire, maintain, operate and replace capital improvements.**

15 **Sec. 6.** NRS 278.026 is hereby amended to read as follows:

16 278.026 As used in NRS 278.026 to 278.029, inclusive, **and sections**
17 **2, 3 and 4 of this act**, unless the context otherwise requires:

18 1. "Affected entity" means a public utility, franchise holder, local or
19 regional agency, **university, community college** or any other entity having
20 responsibility for planning or providing public facilities relating to
21 transportation, solid waste, energy generation and transmission,
22 conventions and the promotion of tourism, air quality or public education.
23 The term does not include:

24 (a) A state agency; or

25 (b) A public utility which is subject to regulation by the public utilities
26 commission of Nevada.

27 2. "Facilities plan" means a plan for the development of public
28 facilities which will have a regional impact or which will aid in
29 accomplishing regional goals relating to transportation, solid waste, energy
30 generation and transmission, conventions and the promotion of tourism, air
31 quality or public education. The term does not include a plan for the
32 development of a specific site or regulations adopted by an affected entity
33 to implement the comprehensive regional plan.

34 3. "Governing board" means the governing board for regional
35 planning created pursuant to NRS 278.0264.

36 4. "Joint planning area" means an area that is the subject of common
37 study and planning by the governing body of a county and one or more
38 cities.

39 5. "Project of regional significance," with respect to a project proposed
40 by any person other than a public utility, means a project which:

1 (a) Has been identified in the guidelines of the regional planning
2 commission as a project which will result in the loss or significant
3 degradation of a designated historic, archeological, cultural or scenic
4 resource;

5 (b) Has been identified in the guidelines of the regional planning
6 commission as a project which will result in the creation of significant new
7 geothermal or mining operations;

8 (c) Has been identified in the guidelines of the regional planning
9 commission as a project which will have a significant effect on the natural
10 resources, public services, public facilities or the adopted regional form of
11 the region; or

12 (d) Will require a change in zoning, a special use permit, an amendment
13 to a master plan, a tentative map or other approval for the use of land
14 which, if approved, will have an effect on the region of increasing:

15 (1) Employment by not less than 938 employees;

16 (2) Housing by not less than 625 units;

17 (3) Hotel accommodations by not less than 625 rooms;

18 (4) Sewage by not less than 187,500 gallons per day;

19 (5) Water usage by not less than 625 acre feet per year; or

20 (6) Traffic by not less than an average of 6,250 trips daily.

21 The term does not include any project for which a request for an
22 amendment to a master plan, a change in zoning, a tentative map or a
23 special use permit has been approved by the local planning commission
24 before June 17, 1989.

25 6. "Project of regional significance," with respect to a project proposed
26 by a utility, includes:

27 (a) An electric substation;

28 (b) A transmission line that carries 60 kilovolts or more;

29 (c) A facility that generates electricity greater than 5 megawatts;

30 (d) Natural gas storage and peak shaving facilities; and

31 (e) Gas regulator stations and mains that operate over 100 pounds per
32 square inch.

33 7. "Sphere of influence" means an area into which a city plans to
34 expand as designated in the comprehensive regional plan within the time
35 designated in the comprehensive regional plan.

36 **Sec. 7.** NRS 278.0262 is hereby amended to read as follows:

37 278.0262 1. There is hereby created in each county whose
38 population is 100,000 or more but less than 400,000, a regional planning
39 commission consisting of ~~1~~:

40 ~~—(a) Three members~~ **11 members appointed as follows:**

41 **(a) One member** from the local planning commission of each ~~city~~ **of**
42 **the two largest cities** in the county, ~~whose population is 40,000 or more,~~

43 appointed by the respective governing bodies of those cities;

(b) One member from the local planning commission of ~~each city in the county whose population is less than 40,000, appointed by the respective governing bodies of those cities; and~~

~~—(c) Three members from the local planning commission of~~ the county, appointed by the governing body of the county, ~~{at least two of whom}~~ **who** must reside in **the** unincorporated ~~{areas}~~ **area** of the county ~~{;}~~ ;

(c) One member to represent the interests of transportation in the county, appointed by the regional transportation commission;

(d) One member who is a member of the water planning commission of the county, created pursuant to NRS 540A.080, appointed by the governing body of the county;

(e) One member to represent the interests of the schools in the county, appointed by the board of trustees of the county school district;

(f) One member to represent the interests relating to the control of air pollution in the county, appointed by the district health department;

(g) One member to represent the interests of affordable housing in the county, appointed by the governing board for regional planning;

(h) One member to represent the interests of tourism and economic development in the county, appointed by the governing board for regional planning;

(i) One member to represent the interests of parks, recreation and open space in the county, appointed by the governing board for regional planning; and

(j) One member to represent the interests of health and human services in the county, appointed by the governing board for regional planning.

2. Except for the terms of the initial members of the commission, the term of each member is 3 years and until the selection and qualification of his successor. A member may be reappointed. A member who ceases to be a member of the local planning commission of the jurisdiction from which he is appointed **or ceases to be a member of the water planning commission** automatically ceases to be a member of the commission. A vacancy must be filled for the unexpired term by the governing body which made the original appointment.

3. The commission shall elect its chairman from among its members. The term of the chairman is 1 year. The member elected chairman must have been appointed ~~{by the governing body of the county or a city whose population is 40,000 or more,}~~ **pursuant to paragraph (a) or (b) of subsection 1**, as determined pursuant to a schedule adopted by the commission and made a part of its bylaws which provides for the annual rotation of the chairmanship among each of those governing bodies.

4. A member of the commission must be compensated at the rate of \$40 per meeting or \$200 per month, whichever is less.

Sec. 8. NRS 278.0274 is hereby amended to read as follows:

278.0274 The comprehensive regional plan must include goals, policies, maps and other documents relating to:

1. Population, including a projection of population growth in the region and the resources that will be necessary to support that population.

2. Conservation, including policies relating to the use and protection of air, land, water, and other natural resources, ambient air quality, natural recharge areas, floodplains and wetlands, and a map showing the areas that are best suited for development based on those policies.

3. *The limitation of urban sprawl, preservation of neighborhoods and revitalization of urban areas, including, without limitation, policies that promote the interspersions of new housing and businesses in established neighborhoods and set forth the specific methods and principles pursuant to which such interspersions must be carried out.*

4. Land use and transportation, including the classification of future land uses by density or intensity of development based upon the projected necessity and availability of public facilities and services and natural resources, and the compatibility of development in one area with that of other areas in the region. This portion of the plan must allow for a variety of uses, describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses and must be based upon the policies and map relating to conservation that are developed pursuant to subsection 2, surveys, studies and data relating to the area, the amount of land required to accommodate planned growth, the population of the area projected pursuant to subsection 1, and the characteristics of undeveloped land in the area.

~~{4.}~~ 5. Public facilities and services, including provisions relating to sanitary sewer facilities, solid waste, flood control, potable water and ground-water aquifer recharge which are correlated with principles and guidelines for future land uses, and which specify ways to satisfy the requirements created by those future uses. This portion of the plan must ~~{describe}~~ :

(a) *Describe* the problems and needs of the area relating to public facilities and services and the general facilities that will be required for their solution and satisfaction ~~{, identify}~~ ;

(b) *Identify* the providers of public services within the region and the area within which each must serve, including service territories set by the public utilities commission of Nevada for public utilities ~~{, and must establish}~~ ;

(c) *Establish* the time within which those public facilities and services necessary to support the development relating to land use and transportation must be made available to satisfy the requirements created by that development

~~{,~~

~~5.1~~; and

(d) Contain a summary prepared by the regional planning commission with the assistance of the advisory committee on plans for capital improvements, created pursuant to section 4 of this act, regarding the plans for capital improvements that:

(1) Are required to be prepared by each local government in the region pursuant to NRS 278.0226; and

(2) May be prepared by the water planning commission of the county, the regional transportation commission and the county school district.

6. Annexation, including the identification of spheres of influence for each unit of local government, improvement district or other service district and specifying standards and policies for changing the boundaries of a sphere of influence and procedures for the review of development within each sphere of influence. As used in this subsection, "sphere of influence" means an area into which a political subdivision may expand in the foreseeable future.

~~6.1~~ **7.** Intergovernmental coordination, including the establishment of guidelines for determining whether local master plans and facilities plans conform with the comprehensive regional plan.

~~7.1~~ **8.** Any utility project required to be reported pursuant to NRS 278.145.

Sec. 9. NRS 278.250 is hereby amended to read as follows:

278.250 1. For the purposes of NRS 278.010 to 278.630, inclusive, the governing body may divide the city, county or region into zoning districts of such number, shape and area as are best suited to carry out the purposes of NRS 278.010 to 278.630, inclusive. Within the zoning district it may regulate and restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land.

2. The zoning regulations must be adopted in accordance with the master plan for land use and be designed:

(a) To preserve the quality of air and water resources.

(b) To promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment.

(c) To provide for recreational needs.

(d) To protect life and property in areas subject to floods, landslides and other natural disasters.

(e) To conform to the adopted population plan, if required by NRS 278.170.

(f) To develop a timely, orderly and efficient arrangement of transportation and public facilities and services, including facilities and services

for

bicycles.

(g) To ensure that the development on land is commensurate with the character and the physical limitations of the land.

(h) To take into account the immediate and long-range financial impact of the application of particular land to particular kinds of development, and the relative suitability of the land for development.

(i) To promote health and the general welfare.

(j) To ensure the development of an adequate supply of housing for the community, including the development of affordable housing.

3. The zoning regulations must be adopted with reasonable consideration, among other things, to the character of the area and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the city, county or region.

4. In exercising the powers granted in this section, the governing body may use any controls relating to land use or principles of zoning that the governing body determines to be appropriate, including, without limitation, density bonuses, inclusionary zoning and minimum density zoning.

5. As used in this section:

(a) "Density bonus" means an incentive granted by a governing body to a developer of real property that authorizes the developer to build at a greater density than would otherwise be allowed under the master plan, in exchange for an agreement by the developer to perform certain functions that the governing body determines to be socially desirable, including, without limitation, developing an area to include a certain proportion of affordable housing.

(b) "Inclusionary zoning" means a type of zoning pursuant to which a governing body requires or provides incentives to a developer who builds residential dwellings to build a certain percentage of those dwellings as affordable housing.

(c) "Minimum density zoning" means a type of zoning pursuant to which development must be carried out at or above a certain density to maintain conformance with the master plan.

Sec. 10. NRS 278B.160 is hereby amended to read as follows:

278B.160 1. A local government may by ordinance impose an impact fee in a service area to pay the cost of ~~constructing~~ :

(a) Constructing a capital improvement or facility expansion ; and

(b) Mitigating environmental impacts,
necessitated by and attributable to new development.

2. Except as otherwise provided in NRS 278B.220, the cost of **constructing a capital improvement or facility expansion** may include only:

(a) The estimated cost of actual construction;

- 1 (b) Estimated fees for professional services;
- 2 (c) The estimated cost to acquire the land; ~~land~~
- 3 (d) *The estimated cost of maintaining and repairing the capital*
- 4 *improvement or facility expansion for its expected useful life; and*
- 5 (e) The fees paid for professional services required for the preparation
- 6 or revision of a capital improvements plan in anticipation of the imposition
- 7 of an impact fee.
- 8 ~~12.1~~ 3. All property owned by a school district is exempt from the
- 9 requirement of paying impact fees imposed pursuant to this chapter.
- 10 **Sec. 11.** The regional planning commission created pursuant to NRS
- 11 278.0262 shall:
- 12 1. Prepare a report in which the regional planning commission
- 13 examines and recommends methods to:
- 14 (a) Promote redevelopment in older neighborhoods; and
- 15 (b) Redirect growth away from low density suburban developments and
- 16 into established urban areas,
- 17 including, without limitation, tax exemptions and other financial incentives
- 18 and recommended legislation to carry out such goals.
- 19 2. On or before February 15, 2001, submit the report prepared
- 20 pursuant to subsection 1 to the 71st session of the Nevada Legislature.