

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 ~~for omitted material~~ is material to be omitted.

AN ACT relating to land use planning; revising provisions regarding plans for capital improvements; changing the composition of the regional planning commission; expanding the contents of a comprehensive regional plan; requiring members of the regional planning commission to complete certain training; requiring certain local governments to conform their actions, ordinances and regulations to the comprehensive regional plan and providing for the adoption of regulations concerning the resolution of disputes relating to such a requirement; authorizing the governing body of a local government to use certain land use controls and principles of zoning; ***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 and 3 of this act.
3 **Sec. 2. *The legislature hereby finds and declares that:***
4 ***1. The process of regional planning in a county whose population is***
5 ***100,000 or more but less than 400,000, as set forth in NRS 278.026 to***
6 ***278.029, inclusive, and sections 2 and 3 of this act, ensures that***
7 ***comprehensive planning will be carried out with respect to population,***
8 ***conservation, land use and transportation, public facilities and services,***
9 ***annexation and intergovernmental coordination.***
10 ***2. The process of regional planning set forth in NRS 278.026 to***
11 ***278.029, inclusive, and sections 2 and 3 of this act, does not specifically***
12 ***limit the premature expansion of development into undeveloped areas or***
13 ***address the unique needs and opportunities that are characteristic of***

1 *older neighborhoods in a county whose population is 100,000 or more*
2 *but less than 400,000.*

3 *3. The problem of the premature expansion of development into*
4 *undeveloped areas and the unique needs and opportunities that are*
5 *characteristic of older neighborhoods may be addressed through:*

6 *(a) Cooperative efforts to preserve and revitalize urban areas and*
7 *older neighborhoods; and*

8 *(b) Review of the master plans, facilities plans and other similar plans*
9 *of local governments and other affected entities.*

10 *4. It is the intent of the legislature with respect to NRS 278.026 to*
11 *278.029, inclusive, and sections 2 and 3 of this act, that each local*
12 *government and affected entity shall exercise its powers and duties in a*
13 *manner that is in harmony with the powers and duties exercised by other*
14 *local governments and affected entities to enhance the long-term health*
15 *and welfare of the county and all its residents.*

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

21 *(a) Is provided;*

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

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

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

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

31 *(a) A community water system, as that term is defined in NRS*
32 *349.980;*

33 *(b) A sewer system;*

34 *(c) Public transportation;*

35 *(d) Police, fire and ambulance service;*

36 *(e) A drainage system; and*

37 *(f) Streets and roads.*

38 **Sec. 4.** (Deleted by amendment.)

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

40 278.0226 The governing body of each local government whose budget
41 includes any expenditure for the acquisition or maintenance of a capital
42 improvement shall annually prepare a plan for capital improvements which
43 conforms with its master plan and which includes at least the 3 ensuing

1 fiscal years but not more than ~~15~~ 20 fiscal years. *The plan for capital*
2 *improvements must identify:*

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

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

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

7 278.026 As used in NRS 278.026 to 278.029, inclusive, *and sections 2*
8 *and 3 of this act*, unless the context otherwise requires:

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

15 (a) A state agency ~~15~~ *other than the University and Community*
16 *College System of Nevada;* or

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

19 2. "Facilities plan" means a plan for the development of public
20 facilities which will have a regional impact or which will aid in
21 accomplishing regional goals relating to transportation, solid waste, energy
22 generation and transmission, conventions and the promotion of tourism, air
23 quality or public education. The term does not include a plan for the
24 development of a specific site or regulations adopted by an affected entity
25 to implement the comprehensive regional plan.

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

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

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

33 (a) Has been identified in the guidelines of the regional planning
34 commission as a project which will result in the loss or significant
35 degradation of a designated historic, archeological, cultural or scenic
36 resource;

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

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

or

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

- (1) Employment by not less than 938 employees;
- (2) Housing by not less than 625 units;
- (3) Hotel accommodations by not less than 625 rooms;
- (4) Sewage by not less than 187,500 gallons per day;
- (5) Water usage by not less than 625 acre feet per year; or
- (6) Traffic by not less than an average of 6,250 trips daily.

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

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

- (a) An electric substation;
- (b) A transmission line that carries 60 kilovolts or more;
- (c) A facility that generates electricity greater than 5 megawatts;
- (d) Natural gas storage and peak shaving facilities; and
- (e) Gas regulator stations and mains that operate over 100 pounds per square inch.

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

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

278.0262 1. There is hereby created in each county whose population is 100,000 or more but less than 400,000, a regional planning commission consisting of ~~11~~ **10 members appointed as follows:**

(a) Three members ~~[from the local planning commission of each city in]~~ **appointed by the governing body of** the county ~~[whose population is 40,000 or more, appointed by the respective governing bodies of those cities;~~

~~—(b) One member from the local planning commission of each], at least one of whom must represent a neighborhood advisory group in the county if such a group exists;~~

(b) Three members appointed by the governing body of the largest city in the county [whose population is less than 40,000, appointed by the respective governing bodies of those cities; and], at least one of whom must represent a neighborhood advisory group in the city if such a group exists;

(c) Three members ~~[from the local planning commission of the county,]~~ appointed by the governing body of the **second largest city in the** county, at least ~~[two]~~ **one** of whom must ~~[reside in unincorporated areas of the~~

~~county.]~~ *represent a neighborhood advisory group in the city if such a group exists; and*

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

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 automatically ceases to be a member of the commission.]~~ A vacancy must be filled for the unexpired term by the ~~[governing body]~~ *appointing authority* 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,]~~ 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]~~ *appointing authorities set forth in subsection 1.*

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

5. Each member of the commission must successfully complete the course of training prescribed by the governing body pursuant to subsection 2 of NRS 278.0265 within 1 year after the date on which his term of appointment commences. A member who fails to complete successfully the course of training as required pursuant to this subsection forfeits his appointment 1 year after the date on which his term of appointment commenced.

Sec. 7.5. NRS 278.0265 is hereby amended to read as follows:

278.0265 The governing board:

1. Shall adopt such regulations as are necessary to carry out its specific powers and duties.

2. *Shall prescribe an appropriate course of at least 12 hours of training in land use planning for the members of the regional planning commission. The course of training must include, without limitation, training relating to:*

(a) State statutes and regulations and local ordinances, resolutions and regulations concerning land use planning; and

(b) The provisions of chapter 241 of NRS.

3. May establish and collect reasonable fees for the provision of any service that is authorized pursuant to the provisions of NRS 278.026 to 278.029, inclusive ~~[,]~~ *, and sections 2 and 3 of this act.*

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

2 278.0274 The comprehensive regional plan must include goals,
3 policies, maps and other documents relating to:

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

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

10 3. *The limitation of the premature expansion of development into*
11 *undeveloped areas, preservation of neighborhoods and revitalization of*
12 *urban areas, including, without limitation, policies that relate to the*
13 *interspersions of new housing and businesses in established*
14 *neighborhoods and set forth principles by which growth will be directed*
15 *to older urban areas.*

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

28 ~~4.~~ 5. Public facilities and services, including provisions relating to
29 sanitary sewer facilities, solid waste, flood control, potable water and
30 ground-water aquifer recharge which are correlated with principles and
31 guidelines for future land uses, and which specify ways to satisfy the
32 requirements created by those future uses. This portion of the plan must
33 ~~describe~~ :

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

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

41 (c) *Establish* the time within which those public facilities and services
42 necessary to support the development relating to land use and

1 transportation must be made available to satisfy the requirements created
2 by that development ~~[-]~~

3 ~~[-5.1]~~; and

4 *(d) Contain a summary prepared by the regional planning
5 commission regarding the plans for capital improvements that:*

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

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

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

18 ~~[-6.1]~~ **7.** Intergovernmental coordination, including the establishment of
19 guidelines for determining whether local master plans and facilities plans
20 conform with the comprehensive regional plan.

21 ~~[-7.1]~~ **8.** Any utility project required to be reported pursuant to NRS
22 278.145.

23 **Sec. 8.5.** NRS 278.0284 is hereby amended to read as follows:

24 278.0284 **1.** Any action of a local government relating to
25 development, zoning, the subdivision of land or capital improvements must
26 conform to the master plan of the local government ~~[-]~~ *and the
27 comprehensive regional plan.* In adopting any ordinance or regulation
28 relating to development, zoning, the subdivision of land or capital
29 improvements, the local government shall make ~~[-a specific finding]~~ *specific
30 findings* that the ordinance conforms to the master plan ~~[-]~~ *and the
31 comprehensive regional plan.* Within 1 year after its adoption of any
32 portion of a master plan, the local government shall review and, if
33 necessary, amend its existing ordinances to ensure their conformity with the
34 provisions of the master plan. If any provision of the master plan is
35 inconsistent with any regulation relating to land development, the provision
36 of the master plan governs any action taken in regard to an application for
37 development.

38 **2.** *The regional planning commission shall adopt regulations
39 concerning the resolution of disputes between persons, local governments
40 and the regional planning commission regarding whether an action
41 taken by or an ordinance or resolution adopted by a local government
42 conforms to the provisions of the comprehensive regional plan as
43 required pursuant to subsection 1.*

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

2 278.250 1. For the purposes of NRS 278.010 to 278.630, inclusive,
3 the governing body may divide the city, county or region into zoning
4 districts of such number, shape and area as are best suited to carry out the
5 purposes of NRS 278.010 to 278.630, inclusive. Within the zoning district
6 it may regulate and restrict the erection, construction, reconstruction,
7 alteration, repair or use of buildings, structures or land.

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

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

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

13 (c) To provide for recreational needs.

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

16 (e) To conform to the adopted population plan, if required by NRS
17 278.170.

18 (f) To develop a timely, orderly and efficient arrangement of
19 transportation and public facilities and services, including facilities and
20 services for bicycles.

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

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

26 (i) To promote health and the general welfare.

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

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

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

39 ***5. As used in this section:***

40 ***(a) "Density bonus" means an incentive granted by a governing body***
41 ***to a developer of real property that authorizes the developer to build at a***
42 ***greater density than would otherwise be allowed under the master plan,***
43 ***in exchange for an agreement by the developer to perform certain***

1 *functions that the governing body determines to be socially desirable,*
2 *including, without limitation, developing an area to include a certain*
3 *proportion of affordable housing.*

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

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

11 **Sec. 10.** (Deleted by amendment.)

12 **Sec. 11.** The regional planning commission created pursuant to NRS
13 278.0262 shall:

14 1. Prepare a report in which the regional planning commission
15 examines and recommends methods to:

16 (a) Promote redevelopment in older neighborhoods; and

17 (b) Redirect growth away from low density suburban developments and
18 into established urban areas,
19 including, without limitation, tax exemptions and other financial incentives
20 and recommended legislation to carry out such goals.

21 2. On or before February 15, 2001, submit the report prepared pursuant
22 to subsection 1 to the 71st session of the Nevada Legislature.

23 **Sec. 12.** 1. The governing board for regional planning, created
24 pursuant to NRS 278.0264, shall prescribe the course of training described
25 in subsection 2 of NRS 278.0265 on or before June 30, 2000.

26 2. Notwithstanding the provisions of subsection 5 of NRS 278.0262, a
27 member of the regional planning commission whose term of appointment
28 commences on or before January 1, 2001, must successfully complete the
29 course of training prescribed by the governing body pursuant to subsection
30 2 of NRS 278.0265 on or before June 30, 2001. A member who fails to
31 complete successfully the course of training as required pursuant to this
32 subsection forfeits his appointment on June 30, 2001.