

ASSEMBLY BILL NO. 603—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF COMMISSION ON WORKPLACE SAFETY)

MARCH 17, 1999

Referred to Committee on Commerce and Labor

SUMMARY—Requires conditional use permit for operation of certain hazardous facilities.
(BDR 22-776)

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; requiring the operator of a facility where explosives or highly hazardous substances are used, manufactured, processed, transferred or stored to obtain a conditional use permit from the governing body of the city or county in which the facility is located for the operation of the facility; establishing the procedures for granting such a permit; 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 a new section to read as follows:
3 ***1. No person may operate or maintain in this state a facility where***
4 ***explosives or highly hazardous substances are used, manufactured,***
5 ***processed, transferred or stored without first obtaining a conditional use***
6 ***permit therefor from the governing body of the city or county in which***
7 ***the facility is located. Each governing body shall establish by local***
8 ***ordinance, in accordance with the provisions of this section, the***
9 ***procedures for obtaining such a permit.***
10 ***2. An application for a conditional use permit must be filed with the***
11 ***planning commission of the city, county or region in which the facility is***
12 ***to be located. The planning commission shall, within 90 days after the***
13 ***filing of an application, hold a public hearing to consider the***
14 ***application. The planning commission shall, at least 10 days before the***

1 *date of the hearing, cause notice of the time, date, place and purpose of*
2 *the hearing to be:*

3 *(a) Sent by mail to:*

4 *(1) The applicant;*

5 *(2) Each owner or tenant of real property located within 1,000 feet*
6 *of the property in question;*

7 *(3) If a mobile home park or multiple-unit residence is located*
8 *within 1,000 feet of the property in question, each tenant of that mobile*
9 *home park or multiple-unit residence;*

10 *(4) Any advisory board that has been established for the affected*
11 *area by the governing body;*

12 *(5) The administrator of the division of environmental protection of*
13 *the state department of conservation and natural resources;*

14 *(6) The state fire marshal; and*

15 *(7) The administrator of the division of industrial relations of the*
16 *department of business and industry; and*

17 *(b) Published in a newspaper of general circulation within the city or*
18 *county in which the property in question is located.*

19 *3. The notice required by subsection 2 must:*

20 *(a) Be written in language that is easy to understand; and*

21 *(b) Include a physical description or map of the property in question*
22 *and a description of the explosives or highly hazardous substances that*
23 *will be located at the facility.*

24 *4. In considering the application, the planning commission shall:*

25 *(a) Consult with local emergency planning committees and the*
26 *governing body of any other city or county that may be affected by the*
27 *operation of the facility; and*

28 *(b) Consider fully the effect the facility will have on the health and*
29 *safety of the residents of the city, county or region.*

30 *5. The planning commission shall, within 30 days after the public*
31 *hearing, submit to the governing body its recommendations for any*
32 *actions to be taken on the application. If the planning commission*
33 *recommends that a conditional use permit be granted to the applicant, it*
34 *shall include in its recommendations such terms and conditions for the*
35 *operation of the facility as it deems necessary for the protection of the*
36 *health and safety of the residents of the city, county or region.*

37 *6. The governing body shall, within 30 days after the receipt of the*
38 *recommendations of the planning commission, hold a public hearing to*
39 *consider the application. The governing body shall:*

40 *(a) Cause notice of the hearing to be given in the manner prescribed*
41 *by subsection 2; and*

42 *(b) Grant or deny the conditional use permit within 30 days after the*
43 *public hearing.*

7. *As used in this section:*

(a) *“Explosive” means gunpowders, powders used for blasting, all forms of high explosives, blasting materials, fuses other than electric circuit breakers, detonators and other detonating agents, smokeless powders, other explosive or incendiary devices and any chemical compound, mechanical mixture or device that contains any oxidizing or combustible units, or other ingredients, in such proportions, quantities or packing that ignition by fire, friction, concussion, percussion or detonation of the compound, mixture, device or any part thereof may cause an explosion.*

(b) *“Highly hazardous substance” means any substance designated as highly hazardous pursuant to NRS 459.3816.*

Sec. 2. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 278.265 is hereby amended to read as follows:

278.265 1. Any ordinance enacted pursuant to the provisions of NRS 278.264 must provide, in substance, the same notice of hearing and conduct of hearing safeguards required by NRS 278.315 or 278.480, whichever is applicable.

2. The governing body shall, by ordinance, set forth the duties and powers of the hearing examiner, including a statement of whether the hearing examiner may take final action on any matter assigned to him by the governing body.

3. ~~{The}~~ *Except as otherwise provided in subsection 4, the* governing body may authorize the hearing examiner to take final action on matters relating to a variance, vacation, abandonment, special use permit, conditional use permit and other special exception or application specified in the ordinance.

4. The governing body shall not authorize the hearing examiner to take final action on ~~{matters}~~ :

(a) *Matters* relating to a zoning classification, zoning district or an amendment to a zoning boundary.

(b) *An application for a conditional use permit that is filed pursuant to section 1 of this act.*

5. An ordinance adopted pursuant to NRS 278.264 must set forth the manner in which an applicant or protestant may appeal any final action taken by the hearing examiner to the governing body.

Sec. 4. NRS 278.315 is hereby amended to read as follows:

278.315 1. The governing body may provide by ordinance for the granting of variances, special use permits, conditional use permits or other

1 special exceptions by the board of adjustment, the planning commission or
2 a hearing examiner appointed pursuant to NRS 278.262. The governing
3 body may impose this duty entirely on the board, commission or examiner,
4 respectively, or provide for the granting of enumerated categories of
5 variances, special use permits, conditional use permits or special
6 exceptions by the board, commission or examiner.

7 2. A hearing to consider an application for the granting of a variance,
8 special use permit, conditional use permit or special exception must be
9 held before the board of adjustment, planning commission or hearing
10 examiner within 65 days after the filing of the application, unless a longer
11 time or a different process of review is provided in an agreement entered
12 into pursuant to NRS 278.0201. A notice setting forth the time, place and
13 purpose of the hearing must be sent by mail at least 10 days before the
14 hearing to:

15 (a) The applicant;

16 (b) Each owner of real property located within 300 feet of the property
17 in question;

18 (c) If a mobile home park is located within 300 feet of the property in
19 question, each tenant of that mobile home park; and

20 (d) Any advisory board which has been established for the affected area
21 by the governing body.

22 The notice must be written in language which is easy to understand. It
23 must set forth the time, place and purpose of the hearing and a physical
24 description or map of the property in question.

25 3. If the application is for the issuance of a special use permit in a
26 county whose population is 100,000 or more, the governing body shall, to
27 the extent this notice does not duplicate the notice required by subsection
28 2, cause a notice to be sent by mail at least 10 days before the hearing to
29 each owner, as listed on the county assessor's records, of at least 30 parcels
30 nearest to the property in question. The notice must be written in language
31 which is easy to understand. It must set forth the time, place and purpose
32 of the hearing and a physical description or map of the property in
33 question.

34 4. An ordinance adopted pursuant to this section must provide an
35 opportunity for the applicant or a protestant to appeal from a decision of
36 the board of adjustment, planning commission or hearing examiner to the
37 governing body.

38 5. In a county whose population is 400,000 or more, if the application
39 is for the issuance of a special use permit for an establishment which
40 serves alcoholic beverages for consumption on or off of the premises as its
41 primary business in a district which is not a gaming enterprise district as
42 defined in NRS 463.0158, the governing body shall, in addition to mailing
43 the notice required pursuant to subsection 3, not later than 10 days before

1 the hearing, erect or cause to be erected on the property, at least one sign
2 not less than 2 feet high and 2 feet wide. The sign must be made of
3 material reasonably calculated to withstand the elements for 40 days. The
4 governing body must be consistent in its use of colors for the background
5 and lettering of the sign. The sign must include the following information:

6 (a) The existing permitted use and zoning designation of the property in
7 question;

8 (b) The proposed permitted use of the property in question;

9 (c) The date, time and place of the public hearing; and

10 (d) A telephone number which may be used by interested persons to
11 obtain additional information.

12 6. A sign required pursuant to subsection 5 is for informational
13 purposes only, and must be erected regardless of any local ordinance
14 regarding the size, placement or composition of signs to the contrary.

15 7. A governing body may charge an additional fee for each application
16 for a special use permit to cover the actual costs resulting from the erection
17 of not more than one sign required by subsection 5, if any. The additional
18 fee is not subject to the limitation imposed by NRS 354.5989.

19 8. The governing body shall remove or cause to be removed any sign
20 required by subsection 5 within 5 days after the final hearing for the
21 application for which the sign was erected. There must be no additional
22 charge to the applicant for such removal.

23 ***9. The provisions of this section do not apply to an application for a***
24 ***conditional use permit filed pursuant to section 1 of this act.***

25 **Sec. 5.** This act becomes effective upon passage and approval for the
26 purpose of adopting the local ordinances required by section 1 of this act
27 and on October 1, 1999, for all other purposes.