

ASSEMBLY BILL NO. 247—ASSEMBLYMAN HOLCOMB

MARCH 21, 2005

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing management of water resources in certain counties. (BDR 22-805)

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.

AN ACT relating to planning; providing that regional plans and master plans adopted by local governments in certain counties are deemed to include certain provisions requiring that any proposed change in land use that would result in an increase in the use of water must be offset by an equivalent decrease in the use of water elsewhere in the water planning region or by the addition of new water resources to the water planning region; and providing other matters properly relating thereto.

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

Section 1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Each regional plan and master plan in a county whose population is 100,000 or more but less than 400,000 shall be deemed to include the following provisions:

(a) Any proposed change in land use that will result in an increase in the intensity of water use must not be approved unless the increase in intensity of water use is offset by an equivalent decrease in the intensity of water use through other means, including, without limitation, approved transfers of density within any land owned by an applicant, changes in zoning by agreements among property owners and amendments to master plans.



(b) A change in zoning or an amendment to a master plan proposed for the purpose of decreasing the intensity of water use pursuant to paragraph (a) may include any parcel of land within the water planning region described in the comprehensive regional water plan developed pursuant to NRS 540A.130, except a parcel of land that is:

(1) Located within a redevelopment district; or

(2) Designated in the regional plan as:

(I) A transit-oriented development corridor;

(II) A downtown or regional center; or

(III) An emerging employment center.

(c) A proposed change in zoning or amendment to a master plan may be exempted from the requirements of paragraphs (a) and (b) if the water planning commission of the county certifies that the water source identified for the proposed change in land use is:

(1) A water source additional to the existing water resources of the water planning region; and

(2) Capable of serving the full net increase in water use projected to result from the proposed change in land use.

2. To the extent that any provision in a regional plan or master plan conflicts with the requirements of this section, that provision is void.

Sec. 2. NRS 278.026 is hereby amended to read as follows:

278.026 As used in NRS 278.026 to 278.029, inclusive, *and section 1 of this act*, unless the context otherwise requires:

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

(a) A state agency; or

(b) A public utility which is subject to regulation by the Public Utilities Commission of Nevada.

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

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



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

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

7 (a) Has been identified in the guidelines of the regional planning
8 commission as a project which will result in the loss or significant
9 degradation of a designated historic, archeological, cultural or
10 scenic resource;

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

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

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

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

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

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

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

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

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

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

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

34 (a) An electric substation;

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

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

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

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

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

43 **Sec. 3.** NRS 278.0261 is hereby amended to read as follows:

44 278.0261 The Legislature hereby finds and declares that:



1 1. The process of regional planning in a county whose
2 population is 100,000 or more but less than 400,000, as set forth in
3 NRS 278.026 to 278.029, inclusive, *and section 1 of this act*,
4 ensures that comprehensive planning will be carried out with respect
5 to population, conservation, land use and transportation, public
6 facilities and services, annexation and intergovernmental
7 coordination.

8 2. The process of regional planning set forth in NRS 278.026
9 to 278.029, inclusive, *and section 1 of this act*, does not specifically
10 limit the premature expansion of development into undeveloped
11 areas or address the unique needs and opportunities that are
12 characteristic of older neighborhoods in a county whose population
13 is 100,000 or more but less than 400,000.

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

17 (a) Cooperative efforts to preserve and revitalize urban areas and
18 older neighborhoods; and

19 (b) Review of the master plans, facilities plans and other similar
20 plans of local governments and other affected entities.

21 4. It is the intent of the Legislature with respect to NRS
22 278.026 to 278.029, inclusive, *and section 1 of this act*, that each
23 local government and affected entity shall exercise its powers and
24 duties in a manner that is in harmony with the powers and duties
25 exercised by other local governments and affected entities to
26 enhance the long-term health and welfare of the county and all its
27 residents.

28 **Sec. 4.** NRS 278.0265 is hereby amended to read as follows:

29 278.0265 The governing board:

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

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

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

38 (b) The provisions of chapter 241 of NRS.

39 3. May establish and collect reasonable fees for the provision
40 of any service that is authorized pursuant to the provisions of NRS
41 278.026 to 278.029, inclusive *H*, *and section 1 of this act*.

42 4. May enter into an agreement pursuant to NRS 277.045 or
43 277.080 to 277.180, inclusive, for a purpose that is consistent with
44 the provisions of NRS 278.026 to 278.029, inclusive *H*, *and*
45 *section 1 of this act*.



Sec. 5. NRS 278.0268 is hereby amended to read as follows:

278.0268 1. The governing board and the regional planning commission may, jointly or separately, appoint subcommittees for any purpose that is consistent with NRS 278.026 to 278.029, inclusive ~~H~~, *and section 1 of this act*. A subcommittee appointed pursuant to this subsection must be composed only of:

(a) Members of the governing board or regional planning commission, as appropriate, if the subcommittee is appointed separately; or

(b) Members from both the governing board and the regional planning commission, if the subcommittee is appointed jointly.

2. To assist in the formulation and the implementation of the comprehensive regional plan, the governing board and the regional planning commission may, jointly or separately, appoint advisory committees to advise and report to the governing board, regional planning commission, director of regional planning or a combination of such entities.

3. The governing board and the regional planning commission may, jointly or separately, appoint advisory committees to examine issues that affect the county in which the governing board and regional planning commission are located. The governing board and regional planning commission may appoint persons from outside the county in which the governing board and regional planning commission are located and from outside this State to serve on an advisory committee appointed pursuant to this section. An advisory committee appointed pursuant to this subsection may:

(a) Identify, examine and discuss regional issues that affect the county in which the governing board and regional planning commission are located, including, without limitation, issues relating to land use, fiscal matters, air quality and infrastructure; and

(b) Make recommendations to the governing board, regional planning commission, or both, concerning regional issues.

Sec. 6. NRS 278.0288 is hereby amended to read as follows:

278.0288 The region defined in NRS 278.790 is exempt from the provisions of NRS 278.026 to 278.029, inclusive, *and section 1 of this act*, and 278.145.

Sec. 7. NRS 268.623 is hereby amended to read as follows:

268.623 "Sphere of influence" means an area into which a city plans to expand as designated in a comprehensive regional plan adopted pursuant to NRS 278.026 to 278.029, inclusive, *and section 1 of this act*, within the time designated in the comprehensive regional plan.

Sec. 8. NRS 268.625 is hereby amended to read as follows:

268.625 1. A city located in a county whose population is 100,000 or more but less than 400,000 that has adopted a



1 comprehensive regional plan pursuant to NRS 278.026 to 278.029,
2 inclusive, *and section 1 of this act*, shall adopt a program of
3 annexation. The program must identify areas in any sphere of
4 influence of the city to be considered for annexation within the next
5 7 years. The city shall not consider the annexation of any area that is
6 not within the designated sphere of influence and is not included in
7 its program of annexation.

8 2. Before adopting a program of annexation pursuant to
9 subsection 1, the city must hold one or more public hearings. Notice
10 of the time and place of the hearing must be mailed to all owners of
11 real property in the proposed program of annexation. At the public
12 hearing, the city shall consider:

- 13 (a) The location of property to be considered for annexation;
- 14 (b) The logical extension of city limits;
- 15 (c) The need for the expansion to accommodate planned
16 regional growth;
- 17 (d) The location of existing and planned water and sewer
18 service;
- 19 (e) Community goals that would be met by any proposed
20 annexation;
- 21 (f) The efficient and cost-effective provision of service areas and
22 capital facilities; and
- 23 (g) Any other factors concerning any proposed annexation
24 deemed appropriate for consideration by the governing body of the
25 city.

26 3. The city shall submit its program of annexation adopted
27 pursuant to subsection 1 to the regional planning commission and
28 the county in which the city is located for recommendations.

29 4. The regional planning commission must certify that a
30 program of annexation adopted pursuant to subsection 1 conforms
31 with the comprehensive regional plan before the program is put into
32 effect. The county or the city may appeal an adverse determination
33 of the regional planning commission in the manner provided in
34 subsections 3 and 4 of NRS 278.028.

35 5. After certification of a program of annexation pursuant to
36 subsection 4, any facilities plan, capital improvement program,
37 development project or location of facilities by a county, a city, an
38 annexation commission, a regional planning commission, the
39 governing board or any other affected entity must be consistent with
40 the certified program of annexation.

41 **Sec. 9.** NRS 268.648 is hereby amended to read as follows:

42 268.648 1. Upon *the* conclusion of the hearing, the
43 commission may take the matter under consideration and shall,
44 within 30 days following *the* conclusion of the hearing, present its



1 determination. The commission may also adjourn a hearing from
2 time to time, but not to exceed a total of 30 days.

3 2. A commission in any county that is subject to the provisions
4 of NRS 278.026 to 278.029, inclusive, *and section 1 of this act*,
5 shall:

6 (a) Disapprove a proposal for annexation that is determined by
7 the regional planning commission to be inconsistent with the
8 comprehensive regional plan or with a program of annexation that is
9 adopted and certified pursuant to NRS 268.625.

10 (b) Approve a proposal for annexation that is consistent with the
11 comprehensive regional plan and a program of annexation that is
12 adopted and certified pursuant to NRS 268.625.

13 3. If the commission approves the annexation, proceedings
14 therefor may be continued as provided in NRS 268.610 to 268.670,
15 inclusive. Except as otherwise provided in this subsection, if the
16 commission disapproves the proposed annexation, further
17 proceedings to annex the territory to the city must terminate. If a
18 county and affected cities have executed an interlocal agreement to
19 transfer the duties of the annexation commission of the city to the
20 regional planning commission, a county or city may appeal a
21 determination of the regional planning commission in accordance
22 with NRS 278.028. If the commission approves the proposed
23 annexation with modifications or conditions, further proceedings for
24 the annexation may be continued only in compliance with such
25 modifications or conditions.

26 **Sec. 10.** NRS 268.660 is hereby amended to read as follows:

27 268.660 1. Except as provided in subsection 2, the
28 annexation must be denied if protests are made, either in writing as
29 provided in NRS 268.656 or at the public hearing, by:

30 (a) A majority in number of the real property owners of the
31 territory proposed to be annexed; or

32 (b) The owners of real property whose combined value is greater
33 than 50 percent of the total value of real property in the territory
34 proposed to be annexed, as determined by assessment for taxation.

35 2. Annexation of territory to a city may be approved over any
36 protest if:

37 (a) The territory proposed to be annexed is entirely surrounded
38 by such city and:

39 (1) Does not exceed 40 acres in area; or

40 (2) Is subdivided for residential, commercial or industrial
41 purposes;

42 (b) Provision of municipal services, including , without
43 limitation , water, sewerage, police protection and fire protection, to
44 the territory proposed to be annexed is necessary to the public
45 health, safety, convenience or welfare; and



1 (c) The city to which annexation is proposed is or within a
2 reasonable time will be able to supply the municipal services so
3 required.

4 3. In a county that is subject to the provisions of NRS 278.026
5 to 278.029, inclusive, *and section 1 of this act*, if an annexation is
6 denied because of:

7 (a) A protest made pursuant to subsection 1, the regional
8 planning commission shall review the program of annexation and
9 the comprehensive regional plan and shall:

10 (1) Place the territory removed from the program of
11 annexation in a category in the comprehensive regional plan that is
12 not scheduled to receive public facilities or public services for the
13 duration of the annexation program;

14 (2) Place the territory removed from the program of
15 annexation, with the consent of the governing body of the county
16 and the governing body of the affected city, in a category in the
17 comprehensive regional plan that is scheduled to receive public
18 facilities and public services from the county; or

19 (3) Retain the territory within the program of annexation.
20 This subparagraph does not preclude a subsequent proceeding with
21 respect to all or part of that territory if the proceeding is commenced
22 more than 1 year after the public hearing.

23 (b) A failure of the city to put into effect the program of
24 annexation, the regional planning commission may direct that the
25 territory be placed in a category in the comprehensive regional plan
26 that allows the county to provide services to the territory.

27 4. A public body may exclude its own lands from annexation if
28 they are held for purposes other than highways.

