

ASSEMBLY BILL NO. 473—ASSEMBLYMEN SEGERBLOM, KIHUEN,  
PARKS, HORNE, KIRKPATRICK, KOIVISTO, MANENDO,  
MCCLAIN, MUNFORD, OHRENSCHALL, PIERCE AND  
WOMACK (BY REQUEST)

MARCH 19, 2007

JOINT SPONSORS: SENATORS COFFIN AND TITUS

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to the preservation  
of existing neighborhoods. (BDR 22-368)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
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 land use planning; making various changes  
relating to the preservation of existing neighborhoods;  
allowing certain public utility corporations and service  
providers to apply for and receive a rate adjustment to  
incorporate the cost of placing certain facilities  
underground; and providing other matters properly  
relating thereto.

**Legislative Counsel's Digest:**

Under existing law, certain planning, zoning and transportation plans and regulations are required to incorporate the consideration of certain policies, including the protection of existing neighborhoods and communities. (NRS 278.02528, 278.0274, 278.160, 278.250, 408.290) **Sections 1-4 and 10** of this bill require state and local governmental entities to address the effect of proposed streets and highways upon existing neighborhoods in those plans and regulations.

Existing law prescribes requirements for the vacation or abandonment of a street by a city or county. (NRS 278.480) **Section 5** of this bill prohibits a city from requiring agreement from more than 80 percent of the abutting property owners as a prerequisite to vacating a street.

Under existing law, certain local governments are authorized to establish a local improvement district to finance a project to convert certain service facilities to underground facilities. (NRS 271.800, 271.850) Existing law also allows certain property owners to petition for the creation of a service district to pay for the cost



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of converting certain overhead electric and communication facilities to underground locations. (Chapter 704A of NRS) Under existing law, the cost of converting both types of facilities is borne by benefited property owners. **Sections 8, 9, 11 and 12** of this bill allow service providers and public utility corporations who are subject to the jurisdiction of the Public Utilities Commission of Nevada to apply to and receive approval from the Commission to include underground conversion costs within their rate base, in part to preserve existing neighborhoods. Assessments against property owners to pay for such costs must be reduced to the extent that the costs are paid by rate adjustments.

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

**Section 1.** NRS 278.02528 is hereby amended to read as follows:

278.02528 1. The regional planning coalition shall develop a comprehensive regional policy plan for the balanced economic, social, physical, environmental and fiscal development and orderly management of the growth of the region for a period of at least 20 years. The comprehensive regional policy plan must contain recommendations of policy to carry out each part of the plan.

2. In developing the plan, the coalition:

(a) May consult with other entities that are interested or involved in regional planning within the county.

(b) Shall ensure that the comprehensive regional policy plan includes goals, policies, maps and other documents relating to:

(1) Conservation, including, without limitation, policies relating to the use and protection of natural resources.

(2) Population, including, without limitation, standardized projections for population growth in the region.

(3) Land use and development, including, without limitation, a map of land use plans that have been adopted by local governmental entities within the region, and that the plan addresses, if applicable, mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts.

(4) Transportation ~~and~~, *including, without limitation, policies addressing the effect of proposed streets and highways upon existing neighborhoods.*

(5) The efficient provision of public facilities and services, including, without limitation, roads, water and sewer service, police and fire protection, mass transit, libraries and parks.

(6) Air quality.

(7) Strategies to promote and encourage:

(I) The interspersation of new housing and businesses in established neighborhoods; and



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(II) Development in areas in which public services are available.

3. The regional planning coalition shall not adopt or amend the comprehensive regional policy plan unless the adoption or amendment is by resolution of the regional planning coalition:

(a) Carried by the affirmative votes of not less than two-thirds of its total membership; and

(b) Ratified by the board of county commissioners of the county and the city council of each city that jointly established the regional planning coalition pursuant to NRS 278.02514.

**Sec. 2.** 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 the premature expansion of development into undeveloped areas, preservation of neighborhoods and revitalization of urban areas, including, without limitation, policies that relate to the interspersion of new housing and businesses in established neighborhoods and set forth principles by which growth will be directed to older urban areas.

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, including, without limitation, schools, 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:

(a) Address, if applicable, mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts;

(b) Allow for a variety of uses;

(c) *Address the effect of proposed streets and highways upon existing neighborhoods;*

(d) Describe the transportation facilities that will be necessary to satisfy the requirements created by those future uses; and

~~(d)~~ (e) 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



1 pursuant to subsection 1, and the characteristics of undeveloped land  
2 in the area.

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

9 (a) Describe the problems and needs of the area relating to  
10 public facilities and services and the general facilities that will be  
11 required for their solution and satisfaction;

12 (b) Identify the providers of public services within the region  
13 and the area within which each must serve, including service  
14 territories set by the Public Utilities Commission of Nevada for  
15 public utilities;

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

20 (d) Contain a summary prepared by the regional planning  
21 commission regarding the plans for capital improvements that:

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

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

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

34 7. Intergovernmental coordination, including the establishment  
35 of guidelines for determining whether local master plans and  
36 facilities plans conform with the comprehensive regional plan.

37 8. Any utility project required to be reported pursuant to  
38 NRS 278.145.

39 **Sec. 3.** NRS 278.160 is hereby amended to read as follows:

40 278.160 1. Except as otherwise provided in subsection 4 of  
41 NRS 278.150 and subsection 3 of NRS 278.170, the master plan,  
42 with the accompanying charts, drawings, diagrams, schedules and  
43 reports, may include such of the following subject matter or portions  
44 thereof as are appropriate to the city, county or region, and as may  
45 be made the basis for the physical development thereof:



(a) Community design. Standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(b) Conservation plan. For the conservation, development and utilization of natural resources, including, without limitation, water and its hydraulic force, underground water, water supply, solar or wind energy, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals and other natural resources. The plan must also cover the reclamation of land and waters, flood control, prevention and control of the pollution of streams and other waters, regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan, prevention, control and correction of the erosion of soils through proper clearing, grading and landscaping, beaches and shores, and protection of watersheds. The plan must also indicate the maximum tolerable level of air pollution.

(c) Economic plan. Showing recommended schedules for the allocation and expenditure of public money in order to provide for the economical and timely execution of the various components of the plan.

(d) Historical properties preservation plan. An inventory of significant historical, archaeological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

(e) Housing plan. The housing plan must include, without limitation:

(1) An inventory of housing conditions, needs and plans and procedures for improving housing standards and for providing adequate housing.

(2) An inventory of affordable housing in the community.

(3) An analysis of the demographic characteristics of the community.

(4) A determination of the present and prospective need for affordable housing in the community.

(5) An analysis of any impediments to the development of affordable housing and the development of policies to mitigate those impediments.

(6) An analysis of the characteristics of the land that is the most appropriate for the construction of affordable housing.

(7) An analysis of the needs and appropriate methods for the construction of affordable housing or the conversion or rehabilitation of existing housing to affordable housing.

(8) A plan for maintaining and developing affordable housing to meet the housing needs of the community.



(f) Land use plan. An inventory and classification of types of natural land and of existing land cover and uses, and comprehensive plans for the most desirable utilization of land. The land use plan:

(1) Must address, if applicable, mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts.

(2) May include a provision concerning the acquisition and use of land that is under federal management within the city, county or region, including, without limitation, a plan or statement of policy prepared pursuant to NRS 321.7355.

(g) Population plan. An estimate of the total population which the natural resources of the city, county or region will support on a continuing basis without unreasonable impairment.

(h) Public buildings. Showing locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

(i) Public services and facilities. Showing general plans for sewage, drainage and utilities, and rights-of-way, easements and facilities therefor, including, without limitation, any utility projects required to be reported pursuant to NRS 278.145.

(j) Recreation plan. Showing a comprehensive system of recreation areas, including, without limitation, natural reservations, parks, parkways, trails, reserved riverbank strips, beaches, playgrounds and other recreation areas, including, when practicable, the locations and proposed development thereof.

(k) Rural neighborhoods preservation plan. In any county whose population is 400,000 or more, showing general plans to preserve the character and density of rural neighborhoods.

(l) Safety plan. In any county whose population is 400,000 or more, identifying potential types of natural and man-made hazards, including, without limitation, hazards from floods, landslides or fires, or resulting from the manufacture, storage, transfer or use of bulk quantities of hazardous materials. The plan may set forth policies for avoiding or minimizing the risks from those hazards.

(m) School facilities plan. Showing the general locations of current and future school facilities based upon information furnished by the appropriate local school district.

(n) Seismic safety plan. Consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking or to ground failures.

(o) Solid waste disposal plan. Showing general plans for the disposal of solid waste.

(p) Streets and highways plan. ~~Showing~~ *The streets and highways plan must:*



(1) *Show* the general locations and widths of a comprehensive system of major traffic thoroughfares and other traffic ways and of streets and the recommended treatment thereof, building line setbacks, and a system of naming or numbering streets and numbering houses, with recommendations concerning proposed changes **H**; and

(2) *Address the effect of proposed streets and highways upon existing neighborhoods.*

(q) Transit plan. Showing a proposed multimodal system of transit lines, including mass transit, streetcar, motorcoach and trolley coach lines, paths for bicycles and pedestrians, satellite parking and related facilities.

(r) Transportation plan. Showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The plan may also include port, harbor, aviation and related facilities.

2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other subjects as may in its judgment relate to the physical development of the city, county or region, and nothing contained in NRS 278.010 to 278.630, inclusive, prohibits the preparation and adoption of any such subject as a part of the master plan.

**Sec. 4.** 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 consider existing views and access to solar resources by studying the height of new buildings which will cast shadows on surrounding residential and commercial developments.

(d) To reduce the consumption of energy by encouraging the use of products and materials which maximize energy efficiency in the construction of buildings.

(e) To provide for recreational needs.

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



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

(h) To develop a timely, orderly and efficient arrangement of transportation and public facilities and services, including public access and sidewalks for pedestrians, and facilities and services for bicycles.

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

(j) 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.

(k) To promote health and the general welfare.

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

(m) To ensure the protection of existing neighborhoods and communities, including the protection of rural preservation neighborhoods **H**, *with specific consideration of the effect of proposed streets and highways upon existing neighborhoods.*

(n) To promote systems which use solar or wind energy.

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. 5.** Chapter 270 of NRS is hereby amended by adding thereto a new section to read as follows:

*If the governing body of an incorporated city establishes by ordinance, regulation or rule a requirement that a street owned by the city may not be vacated unless the vacation is approved by:*

*1. A certain percentage of the property owners abutting the street; or*

*2. A certain percentage of a property owners' association, the percentage required must not exceed 80 percent.*

**Sec. 6.** NRS 270.180 is hereby amended to read as follows:

270.180 NRS 270.160 and 270.170 *and section 5 of this act* are intended to supplement and not to supersede the existing laws relating to the vacation of city and town plats and do not apply to land divided pursuant to NRS 278.010 to 278.630, inclusive.

**Sec. 7.** Chapter 271 of NRS is hereby amended by adding thereto the provisions set forth as sections 8 and 9 of this act.

**Sec. 8. 1.** *A service provider subject to the jurisdiction of the Public Utilities Commission of Nevada may apply to the Commission for an adjustment in its rates to allow its recovery of all or part of the cost of converting existing overhead service facilities to underground facilities.*

*2. After receipt of such an application, the Commission shall hold a public hearing within 120 days to consider whether to authorize such an adjustment and, if authorized, the methods to be used to allow the recovery.*

*3. The Commission shall render its written decision within 180 days after receiving the application for such an adjustment.*

*4. The Commission shall render its decision based on the record and may grant the application, deny it or grant it according to such terms, conditions or modifications as the Commission finds appropriate.*

*5. The Commission may grant an application for such an adjustment if it determines that:*

*(a) The conversion of existing overhead service facilities to underground facilities will help to preserve the character of existing neighborhoods, improve safety or efficiency or otherwise improve the quality of life of the service provider's customers; and*

*(b) The cost of the conversion will be reasonable in consideration of the likely benefits.*

*6. If the Commission grants the application, the service provider shall, within a reasonable time specified by the*



1 *Commission, file with the Commission a tariff which sets forth the*  
2 *adjustment in the rates authorized as a result of the conversion.*

3 *7. A service provider shall annually present to the*  
4 *Commission a certified accounting of the cost of conversion and*  
5 *an accounting of the revenues it has received in that year from the*  
6 *adjustment in its rates.*

7 **Sec. 9.** *If a service provider subject to the jurisdiction of the*  
8 *Public Utilities Commission of Nevada has been granted an*  
9 *adjustment in rates pursuant to section 8 of this act, the amount of*  
10 *assessments against tracts of land within a district to finance an*  
11 *underground conversion project must be reduced to reflect the*  
12 *proportion of the cost of the project, if any, which will be defrayed*  
13 *by that adjustment.*

14 **Sec. 10.** NRS 408.290 is hereby amended to read as follows:

15 408.290 The Department may establish new routes into or in  
16 the vicinity of municipalities and metropolitan areas with the  
17 approval of the board of county commissioners of the county in  
18 which an addition is proposed and with the approval of the city  
19 council of any incorporated city directly affected. *In establishing*  
20 *such new routes, the Department shall consider the effect of the*  
21 *routes upon existing neighborhoods.*

22 **Sec. 11.** Chapter 704A of NRS is hereby amended by adding  
23 thereto a new section to read as follows:

24 *1. A public utility corporation subject to the jurisdiction of*  
25 *the Public Utilities Commission of Nevada may apply to the*  
26 *Commission for an adjustment in its rates to allow its recovery of*  
27 *all or part of the cost of converting existing overhead electric and*  
28 *communication facilities to underground locations.*

29 *2. After receipt of such an application, the Commission shall*  
30 *hold a public hearing within 120 days to consider whether to*  
31 *authorize such an adjustment and, if authorized, the methods to be*  
32 *used to allow the recovery.*

33 *3. The Commission shall render its written decision within*  
34 *180 days after receiving the application for such an adjustment.*

35 *4. The Commission shall render its decision based on the*  
36 *record and may grant the application, deny it or grant it according*  
37 *to such terms, conditions or modifications as the Commission*  
38 *finds appropriate.*

39 *5. The Commission may grant an application for such an*  
40 *adjustment if it determines that:*

41 *(a) The conversion of existing overhead electric and*  
42 *communication facilities to underground locations will help to*  
43 *preserve the character of existing neighborhoods, improve safety*  
44 *or efficiency or otherwise improve the quality of life of the public*  
45 *utility corporation's customers; and*



1     ***(b) The cost of the conversion will be reasonable in***  
2     ***consideration of the likely benefits.***

3     ***6. If the Commission grants the application, the public utility***  
4     ***corporation shall, within a reasonable time specified by the***  
5     ***Commission, file with the Commission a tariff which sets forth the***  
6     ***adjustment in the rates authorized as a result of the conversion.***

7     ***7. A public utility corporation shall annually present to the***  
8     ***Commission a certified accounting of the cost of conversion and***  
9     ***an accounting of the revenues it has received in that year from the***  
10    ***adjustment in its rates.***

11    **Sec. 12.** NRS 704A.312 is hereby amended to read as follows:

12       704A.312 1. At any time after there occur the conditions  
13    stated in subsection 1 or in subsections 2 and 3 of NRS 704A.290,  
14    the governing body, by resolution, shall:

15       (a) Determine the total cost of the construction or conversion  
16    pertaining to the service district, including, without limitation,  
17    interest on any interim warrants relating thereto and all other  
18    incidental costs, based upon the actual costs known at the time of  
19    such determination of cost and otherwise upon the estimated costs  
20    stated in the joint report prepared under NRS 704A.180, as  
21    modified, if modified by the occurrence thereafter of factors  
22    affecting such costs and permitting their revision;

23       ***(b) In the case of a conversion, determine and subtract the***  
24       ***portion of the cost, if any, that will be paid by an adjustment in***  
25       ***rates granted pursuant to section 11 of this act;***

26       (c) Determine the net cost of the construction or conversion to  
27    be defrayed by special assessments;

28       ~~(c)~~ (d) Order the municipal engineer to make out or to cause to  
29    be made out an assessment roll containing, among other matters:

30           (1) The name of each last known owner of each lot to be  
31    assessed, or if not known, a statement that the name is "unknown";  
32    and

33           (2) A description of each tract to be assessed, and the amount  
34    of the proposed assessment thereon, apportioned upon the basis for  
35    assessments stated in the resolution of the governing body adopted  
36    pursuant to subsection 2 of NRS 704A.180, but subject to the  
37    provisions of subsections 5 and 6 of NRS 704A.240; and

38       ~~(d)~~ (e) Cause a copy of the resolution to be furnished by the  
39    municipal clerk to the municipal engineer.

40       2. If by mistake or otherwise any person is improperly  
41    designated in the assessment roll as the owner of any lot, or if the  
42    same is assessed without the name of the owner or each owner, as  
43    the case may be, or in the name of a person other than the owner,  
44    such assessment shall not for that reason be vitiated but shall, in all  
45    respects, be as valid upon and against such lot as though assessed in



1 the name of the owner or each owner thereof, as the case may be;  
2 and when the assessment roll has been confirmed, such assessment  
3 shall become a lien on such lot and be collected as provided by law.  
4 3. No assessment shall exceed the amount of the special  
5 benefits to the lot assessed nor exceed the amount of the reasonable  
6 market value of such lot for any one project for the construction or  
7 conversion of any one type of service facilities of a public utility  
8 corporation, as determined by the governing body.

