

Amendment No. 240

Assembly Amendment to Assembly Bill No. 160

(BDR 21-848)

Proposed by: Assembly Committee on Government Affairs**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date		SENATE ACTION				Initial and Date	
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold* is newly added transitory language.

MSM



Date: 4/11/2007

A.B. No. 160—Revises provisions relating to annexation by cities in certain counties. (BDR 21-848)



ASSEMBLY BILL NO. 160—ASSEMBLYMEN PARNELL, BOBZIEN, LESLIE, ANDERSON,
SMITH, GANSERT AND PIERCE

FEBRUARY 23, 2007

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to annexation by cities in certain counties. (BDR 21-848)

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 cities; revising the membership of certain city annexation commissions; revoking the authority for the duties of a city annexation commission to be transferred to the regional planning commission in certain counties; providing, in certain counties, that **certain** persons who own property in the unincorporated area ~~[within a certain distance]~~ outside the boundaries of territory proposed to be annexed must be given notice of and may protest the proposed annexation; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, in a county whose population is less than 400,000 (currently counties other than Clark County), if the governing body of a city wishes to conduct a nonvoluntary annexation, the governing body must give notice of its intent to annex to each owner of real property in the territory proposed to be annexed. (NRS 268.654) The owners of real property in the territory proposed to be annexed may protest the annexation and, with certain exceptions, the annexation is required to be denied if it is protested by a majority in number of those owners or a number of those owners collectively owning greater than 50 percent of the total value of the real property. (NRS 268.656, 268.660) **Sections 5-7** of this bill extend the right of notice and the right to protest such an annexation to : **(1) the owners of real property in the unincorporated area that is within ~~one-half mile~~ 750 feet outside the boundaries of the territory proposed to be annexed ~~to~~ ; and (2) the owners of each of the 30 separately owned parcels in the unincorporated area outside the boundaries of the territory proposed to be annexed, which parcels are nearest the territory proposed to be annexed, to the extent that such owners are not already given rights of notice and protest by virtue of being within 750 feet of the boundaries of the territory proposed to be annexed.**

Under existing law, in a county whose population is less than 400,000 (currently counties other than Clark County), the governing body of a city may conduct a voluntary annexation with respect to contiguous territory owned in fee by the city, or other contiguous territory if 100 percent of the owners of record of the real property within the territory petition the governing body to annex that territory. (NRS 268.670) **Section 9** of this bill provides that, **in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County), before a governing body conducts such a voluntary annexation ~~to~~ with respect to territory that is not within the city's sphere of influence, it must give notice to : (1) the board of county commissioners ~~and to~~ ; (2) each owner of real property in the**

unincorporated area that is within ~~(1 mile)~~ 750 feet outside the boundaries of the territory proposed to be annexed ~~(1)~~; and (3) the owners of each of the 30 separately owned parcels in the unincorporated area outside the boundaries of the territory proposed to be annexed, which parcels are nearest the territory proposed to be annexed, to the extent that such owners are not already given notice by virtue of being within 750 feet of the boundaries of the territory proposed to be annexed. Pursuant to section 9, such an owner of real property or the board of county commissioners may file with the governing body a written protest to the voluntary annexation, in which case the governing body, if it wishes to continue pursuing the annexation, must use the procedures for a nonvoluntary annexation set forth in NRS 268.610 to 268.668, inclusive.

Under existing law, in a county whose population is 100,000 or more but less than 400,000 (currently Washoe County), a city annexation commission is created and if the number of members of the commission representing the county and each city in the county would produce an even number of members, the Governor is required to appoint the chairman of the regional planning commission to the city annexation commission. (NRS 268.626) The governing bodies of the county and each city in the county may execute an interlocal agreement to transfer the duties of the city annexation commission to the regional planning commission. (NRS 268.626)

Sections 1-4 of this bill revoke the authority to transfer the duties of the city annexation commission to the regional planning commission and alter the membership of the city annexation commission to exclude the chairman of the regional planning commission and to instead include a member who represents the general public. (NRS 268.616, 268.620, 268.626, 268.628)

Section 11 of this bill provides that if proceedings to annex territory have been commenced but not concluded as of October 1, 2007, in a county whose population is less than 400,000 (currently counties other than Clark County), such proceedings must be terminated and, if the party who initiated such proceedings wishes to continue pursuing the annexation, that party must recommence proceedings for the annexation in accordance with the amendatory provisions of this bill.

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

Section 1. NRS 268.616 is hereby amended to read as follows:

268.616 "Commission" means a city annexation commission or, for the purposes of NRS 268.630 to 268.670, inclusive, in counties where no city annexation commission exists, the board of county commissioners, or in Carson City, the board of supervisors. ~~for, in a county which has entered an interlocal agreement pursuant to subsection 2 of NRS 268.626, the regional planning commission.~~

Sec. 2. NRS 268.620 is hereby amended to read as follows:

268.620 "Executive officer" means:

1. With respect to a city annexation commission, the county manager or like administrative officer of the county.

2. ~~[With respect to a city annexation commission in a county that has executed an interlocal agreement pursuant to subsection 2 of NRS 268.626, the director of regional planning.~~

~~3.]~~ With respect to a board of county commissioners, the county manager or like administrative officer of the county, or the clerk of such board.

Sec. 3. NRS 268.626 is hereby amended to read as follows:

268.626 ~~(1)~~ There is hereby created, in each county of the State whose population is 100,000 or more ~~and~~ but less than 400,000, a city annexation commission which consists of members to be selected as follows:

~~1~~ ~~(a)~~ 1. Two members representing the county, one of whom must be the
2 chairman of the board of county commissioners and the other a member of the
3 board to be chosen by the board.

~~4~~ ~~(b)~~ 2. One member representing each city, who must be a member of the
5 governing body to be chosen by the governing body.

~~6~~ ~~(c) If the provisions of paragraphs (a) and (b) result in an even number of~~
7 ~~members, the Governor shall appoint an additional member who is the chairman of~~
8 ~~the regional planning commission.~~

~~9~~ ~~2. The governing bodies of a county and each incorporated city in the county~~
10 ~~may execute an interlocal agreement to transfer the duties of the city annexation~~
11 ~~commission to the regional planning commission.]~~

~~12~~ 3. *One member representing the general public who must be appointed by*
13 *the chairman of the regional planning commission.*

Sec. 4. NRS 268.628 is hereby amended to read as follows:

268.628 1. The first members must be chosen by the respective bodies
16 during the month of May 1967, and serve until the selection and qualification of
17 their successors. Thereafter, members of the commission must be chosen by the
18 respective bodies during the month of January of each odd-numbered year, and
19 serve until the selection and qualification of their successors.

2. Any member who ceases to be a member of the body from which he was
21 chosen ceases to be a member of the commission. Any vacancy must be filled by
22 the body which made the original choice, for the unexpired term.

~~23~~ 3. ~~[The chairman of the regional planning commission shall serve as chairman~~
24 ~~of the commission.]~~ The members of the commission shall elect a *chairman and a*
25 *vice chairman*, who presides in the absence of the chairman.

4. Commission members shall serve without compensation but must be
27 reimbursed the actual amounts of their reasonable and necessary expenses incurred
28 in attending meetings and in performing the duties of their office.

Sec. 5. NRS 268.654 is hereby amended to read as follows:

268.654 1. Upon receipt of a notice of approval from the commission, the
31 clerk of the governing body shall cause a copy of the petition or resolution of intent
32 to annex, and of any modifications or conditions imposed by the commission, to be
33 published in a newspaper of general circulation in the territory proposed to be
34 annexed, or, if there is none, in a newspaper of general circulation published in the
35 county. If no such newspapers are published, a copy of the petition or resolution
36 ~~[shall] must~~ be posted at the front door of the city hall or county courthouse and in
37 at least two conspicuous places in the territory proposed to be annexed, for not less
38 than 20 days before the next regular meeting of the governing body and before
39 there is a vote by the governing body upon the question of annexation.

2. Publication of the petition or resolution pursuant to this section ~~[shall] must~~
41 be for at least 20 days. Three publications in a newspaper published once a week or
42 oftener are sufficient, but the first and last publications ~~[shall] must~~ be at least 6
43 days apart. The period of notice commences upon the first day of publication and
44 terminates either upon the day of the third publication or at the end of the 20th day,
45 including therein the first day, whichever period is longer. At the time the first
46 publication is made, the clerk of the governing body shall send a copy of such
47 petition or resolution by ~~[certified mail, return receipt requested,]~~ *first-class mail* to
48 ~~[each] :~~

~~49~~ (a) *Each* owner of real property in the territory proposed to be annexed ~~[-~~

~~50~~ ~~3. Included with the] ; [and]~~

~~51~~ (b) *Each owner of real property in the unincorporated area that is within*
52 ~~*[one-half mile]*~~ *750 feet* outside the boundaries of the territory proposed to be
53 ~~*annexed [-] ; and*~~

(c) The owner of each of the 30 separately owned parcels in the unincorporated area outside the boundaries of the territory proposed to be annexed, which parcels are nearest the territory proposed to be annexed, to the extent this notice does not duplicate the notice given pursuant to paragraph (b).

3. The petition or resolution in the notice as published or posted and mailed ~~{shall}~~ must be accompanied by a list of ~~{all}~~:

(a) All property owners of record in the territory proposed to be annexed ~~{}~~; and

(b) All property owners of record ~~{in the unincorporated area that is within one-half mile outside the boundaries of the territory proposed to be annexed,}~~ who are required to be given notice pursuant to paragraph (b) or (c) of subsection 2.

Sec. 6. NRS 268.656 is hereby amended to read as follows:

268.656 1. Any owner of real property ~~{in}~~:

(a) In the territory proposed to be annexed; ~~for~~

(b) In the unincorporated area that is within ~~{one-half mile}~~ 750 feet outside the boundaries of the territory proposed to be annexed ~~{}~~; or

(c) Who owns one of the 30 separately owned parcels in the unincorporated area outside the boundaries of the territory proposed to be annexed, which parcels are nearest the territory proposed to be annexed, to the extent that such an owner of real property is not already described in paragraph (b).

may file a written protest to such annexation during the 20-day notice period and may appear and be heard prior to any vote of the governing body on the annexation.

2. Such protest may relate to ~~{a part only of such}~~ the territory proposed to be annexed or to the unincorporated area ~~{that is within one-half mile outside the boundaries of the territory proposed to be annexed,}~~ in which owners of real property are required to be given notice pursuant to paragraph (b) or (c) of subsection 2 of NRS 268.654, and when so relating ~~{shall}~~ must be granted for any good cause shown, including, without limitation, the inability of the annexing city to provide appropriate governmental services within a reasonable time to ~~{such part}~~ the territory proposed to be annexed.

Sec. 7. NRS 268.660 is hereby amended to read as follows:

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

(a) A majority in number of the owners of real property ~~{owners of}~~:

(1) In the territory proposed to be annexed; or

(2) In the unincorporated area ~~{that is within one-half mile outside the boundaries of the territory proposed to be annexed,}~~ in which owners of real property are required to be given notice pursuant to paragraph (b) or (c) of subsection 2 of NRS 268.654; or

(b) The owners of real property whose combined value is greater than 50 percent of the total value of real property ~~{in}~~:

(1) In the territory proposed to be annexed, as determined by assessment for taxation ~~{}~~; or

(2) In the unincorporated area ~~{that is within one-half mile outside the boundaries of the territory proposed to be annexed, as determined by assessment for taxation,}~~ in which owners of real property are required to be given notice pursuant to paragraph (b) or (c) of subsection 2 of NRS 268.654.

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

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

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

(2) Is subdivided for residential, commercial or industrial purposes;
(b) Provision of municipal services, including , without limitation , water, sewerage, police protection and fire protection, to the territory proposed to be annexed is necessary to the public health, safety, convenience or welfare; and

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

3. In a county that is subject to the provisions of NRS 278.026 to 278.029, inclusive, if an annexation is denied because of:

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

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

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

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

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

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

Sec. 8. NRS 268.662 is hereby amended to read as follows:

268.662 1. Whenever it is necessary for the purposes of NRS 268.610 to 268.670, inclusive, to determine ~~the~~ :

(a) The number or identity of the owners of real property in a territory proposed to be annexed ~~is~~ or in an unincorporated area that is within a certain distance outside the boundaries of the territory proposed to be annexed ~~is~~ ; or

(b) The identity of the owners of a certain number of parcels of real property in an unincorporated area, which parcels are nearest the boundaries of the territory proposed to be annexed.

↪ a list of such owners, certified by the county assessor on any date between the initiation as provided in NRS 268.636 and the hearing as provided in NRS 268.658, both dates inclusive, ~~shall be~~ is prima facie evidence that only those persons named thereon are such owners.

2. A petition or protest is sufficient for the purposes of NRS 268.610 to 268.670, inclusive, as to any parcel of real property:

(a) Which is owned by more than one natural person, if it is signed by a majority of the owners.

(b) Which is owned by an artificial person, if it is signed by any authorized agent.

Sec. 9. NRS 268.670 is hereby amended to read as follows:

268.670 1. ~~As~~ Except as otherwise provided in ~~subsection~~ subsections 2, 3 and 4, as an alternative to the procedures for initiation of annexation proceedings set forth in NRS 268.610 to 268.668, inclusive, the governing body of a city may, subject to the provisions of NRS 268.663 and after notifying the board

1 of county commissioners of the county in which the city lies ~~[providing notice]~~ of
2 its intention ~~[as required pursuant to subsection 2.]~~ annex:

3 (a) Contiguous territory owned in fee by the city.

4 (b) Other contiguous territory if 100 percent of the owners of record of
5 individual lots or parcels of land within such ~~[area]~~ territory sign a petition
6 requesting the governing body to annex such ~~[area]~~ territory to the city. ~~[H] Except~~
7 as otherwise provided in [subsection] subsections 2, 3 and 4, if such petition is
8 received and accepted by the governing body, the governing body may proceed to
9 adopt an ordinance annexing such ~~[area]~~ territory and to take such other action as is
10 necessary and appropriate to accomplish such annexation.

11 2. ~~[H] In a county whose population is 100,000 or more but less than~~
12 400,000, at least 30 days before the governing body of a city annexes territory
13 [pursuant to subsection 1.] that is not within the city's sphere of influence, the
14 governing body shall provide notice of its intention to annex that territory. Such
15 notice must be provided in writing and sent by [certified mail, return receipt
16 requested.] first-class mail to:

17 (a) The board of county commissioners of the county in which the city is
18 located; and]

19 (b) Each owner of real property in the unincorporated area that is within [1
20 mile] 750 feet outside the boundaries of the territory proposed to be annexed [.]
21 and

22 (c) The owner of each of the 30 separately owned parcels in the
23 unincorporated area outside the boundaries of the territory proposed to be
24 annexed, which parcels are nearest the territory proposed to be annexed, to the
25 extent this notice does not duplicate the notice given pursuant to paragraph (b).

26 3. Within 30 days after the mailing of the notice pursuant to subsection 2,
27 the board of county commissioners or an owner of real property in the
28 unincorporated area [that is within 1 mile outside the boundaries of the territory
29 proposed to be annexed] in which owners of real property are required to be
30 given notice pursuant to paragraph (b) or (c) of subsection 2 may file with the
31 governing body a written protest to the proposed annexation.

32 4. If the governing body of a city receives a written protest pursuant to
33 subsection 3, the governing body shall, if it wishes to continue pursuing the
34 annexation, follow the procedures for initiation of annexation proceedings set
35 forth in NRS 268.610 to 268.668, inclusive.

36 5. For the purposes of this section, "contiguous" means either abutting
37 directly on the boundary of the annexing municipality or separated from the
38 boundary thereof by a street, alley, public right-of-way, creek, river or the right-of-
39 way of a railroad or other public service corporation, or by lands owned by the
40 annexing municipality, by some other political subdivision of the State or by the
41 State of Nevada.

42 **Sec. 10.** In a county whose population is 100,000 or more but less than
43 400,000:

44 1. If the governing bodies of the county and each incorporated city in the
45 county have executed an interlocal agreement pursuant to subsection 2 of NRS
46 268.626, as that subsection existed before October 1, 2007:

47 (a) The interlocal agreement becomes void on October 1, 2007; and

48 (b) As soon as practicable after October 1, 2007, the members of the city
49 annexation commission must be selected in the manner prescribed in NRS 268.626,
50 as amended by this act. The members so selected serve until the selection and
51 qualification of their successors in January 2009 pursuant to subsection 1 of
52 NRS 268.628.

2. If the governing bodies of the county and each incorporated city in the county have not executed an interlocal agreement pursuant to subsection 2 of NRS 268.626, as that subsection existed before October 1, 2007, the chairman of the regional planning commission shall, as soon as practicable after October 1, 2007, appoint to the city annexation commission a member representing the general public as described in subsection 3 of NRS 268.626, as amended by this act. The member so selected serves until the selection and qualification of his successor in January 2009 pursuant to subsection 1 of NRS 268.628.

Sec. 11. 1. If any proceedings to annex territory to a city pursuant to NRS 268.610 to 268.670, inclusive, have been commenced but not concluded as of October 1, 2007, such proceedings must be terminated and, if the party who initiated the proceedings wishes to continue pursuing the annexation, recommenced pursuant to NRS 268.610 to 268.670, inclusive, as amended by this act.

2. If proceedings to annex territory to a city must be recommenced as described in subsection 1 and if such proceedings were being considered by a regional planning commission pursuant to an interlocal agreement entered into under subsection 2 of NRS 268.626, as that subsection existed before October 1, 2007, the proceedings must be transferred to the city annexation commission for consideration by that entity.

Sec. 12. ~~{The provisions of subsection 1 of NRS 254.599 do not apply to any additional expenses of a local government that are related to the provisions of this act.}~~ (Deleted by amendment.)