

SENATE BILL NO. 301—SENATORS NOLAN, PARKS, AMODEI; CARE,
CEGAVSKE, COPENING, HARDY, RAGGIO, WIENER AND
WOODHOUSE

MARCH 16, 2009

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to military
installations. (BDR 22-689)

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; requiring certain political subdivisions
to develop and enact various master plan provisions,
zoning ordinances and building codes specific to certain
property near military installations; requiring owners of
certain property near military installations to disclose
certain information to any potential buyer of the property;
and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law requires planning commissions to prepare and adopt a
2 comprehensive, long-term master plan for the physical development of the city,
3 county or region in the jurisdiction of the planning commission and sets forth the
4 subject matter of the master plan. (NRS 278.150, 278.160) Governing bodies of
5 cities and counties are authorized under existing law to adopt and amend the master
6 plan of the planning commission, and to adopt, amend and enforce zoning
7 regulations. (NRS 278.230, 278.260) **Section 3** of this bill requires planning
8 commissions in areas that include military installations to work with military
9 personnel to designate certain areas of property near the military installation for
10 special treatment under the master plan. The governing body is then required to
11 amend the master plan and to enact or amend zoning regulations prospectively
12 applicable to those designated areas to assure compatibility with the operations of
13 the military. **Section 5** of this bill further requires the governing body to enact
14 building code provisions in those designated areas that require certain sound
15 attenuation standards and specifications in certain buildings that obtain building
16 permits after the enactment of the code provisions. **Section 8** of this bill requires an
17 owner of property located in those designated areas to disclose the designation to a
18 potential buyer of the property.



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 the provisions set forth as sections 2 to 5, inclusive, of this act.

Sec. 2. *"Territory in the vicinity of a military installation" means any property so designated pursuant to paragraph (a) of subsection 1 of section 3 of this act.*

Sec. 3. 1. *The planning commission of each city and county in which a military installation is located shall, in consultation with the commander of the installation or his designee, formulate a description of property in the county that is to be designated as:*

(a) Territory in the vicinity of the military installation, which territory must include, without limitation, all areas of the county in which major or significant levels of military activity take place.

(b) High noise or accident potential zones within the territory in the vicinity of the military installation as designated pursuant to paragraph (a). Designation of such a zone should include consideration of, without limitation:

(1) Corridors for the arrival and departure of aircraft; and

(2) Ordnance safety zones.

2. *The planning commission shall amend its master plan to include a plan for property located in high noise or accident potential zones designated pursuant to subsection 1 to assure development compatible with the high noise and accident potential generated by the military installation and military operations that may have an adverse effect on public health and safety.*

3. *Any amendment made pursuant to subsection 2 must be made pursuant to NRS 278.210, and is in addition to the requirements for a master plan provided in NRS 278.150 and 278.160.*

4. *The governing body of each city and county in which a military installation is located shall adopt, pursuant to NRS 278.220, any amendments made to the master plan by the planning commission pursuant to subsection 2.*

5. *The governing body of each city and county in which a military installation is located shall adopt and enforce zoning regulations, restrictions and boundaries for property in a high noise or accident potential zone designated pursuant to subsection 1 to assure development compatible with the high noise and accident potential generated by the military installation and military operations that may have an adverse effect on public health and safety.*



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6. Any adoption of zoning regulations, restrictions and boundaries pursuant to subsection 5 must be made pursuant to NRS 278.260 and is in addition to the requirements for zoning regulations provided in NRS 278.250.

7. The provisions of this section do not restrict, limit or modify, or authorize or require a planning commission or governing body of a city or county in which a military installation is located to restrict, limit or modify the right of a landowner to undertake and complete development and use of any property located in a high noise or accident potential zone under the terms and conditions of a development plan approved on or before the adoption of any ordinances, regulations, restrictions or boundaries established pursuant to this section.

8. As used in this section, "high noise or accident potential zone" means a zone designated as such pursuant to paragraph (b) of subsection 1.

Sec. 4. Any variance sought pursuant to NRS 278.315 to a zoning regulation, restriction or boundary adopted pursuant to subsection 5 of section 3 of this act may not be granted without a specific finding that the purpose of the military installation and compatibility with military operations are preserved.

Sec. 5. 1. The governing body of any city or county that includes property designated as territory in the vicinity of a military installation pursuant to section 3 of this act shall incorporate the sound attenuation standards and specifications set forth in subsection 2 into any building code in existence on or adopted after the date that the property becomes such territory. These standards and specifications apply only to new development and renovations that are:

(a) The subject of building permits issued on or after the effective date of any building code amendments made pursuant to this section; and

(b) Located on property within the territory in the vicinity of the military installation.

2. Sound attenuation standards and specifications incorporated into a building code pursuant to this section must require the reduction of noise levels to be incorporated into the design and construction of any residential building, public building, library and church to achieve a maximum interior noise level of 45 decibels.

3. As used in this section:

(a) "Library" has the meaning ascribed to it in NRS 377A.015.

(b) "Public building" means any building or office space occupied by:



(1) Any component of the Nevada System of Higher Education and used for any purpose related to the System; or

(2) The State of Nevada or any county, city, school district or other political subdivision of the State of Nevada and used for any public purpose.

↳ If only part of a building is occupied by an entity described in this paragraph, the term means only that portion of the building which is so occupied.

(c) "Residential building" has the meaning ascribed to it in NRS 461.150.

Sec. 6. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, **and sections 2 to 5, inclusive, of this act**, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, **and section 2 of this act** have the meanings ascribed to them in those sections.

Sec. 7. NRS 278.580 is hereby amended to read as follows:

278.580 1. Subject to the ~~limitation~~ **limitations** set forth in NRS 244.368, **and section 5 of this act**, the governing body of any city or county may adopt a building code, specifying the design, soundness and materials of structures, and may adopt rules, ordinances and regulations for the enforcement of the building code.

2. The governing body may also fix a reasonable schedule of fees for the issuance of building permits. A schedule of fees so fixed does not apply to the State of Nevada or the Nevada System of Higher Education, except that such entities may enter into a contract with the governing body to pay such fees for the issuance of building permits, the review of plans and the inspection of construction. Except as it may agree to in such a contract, a governing body is not required to provide for the review of plans or the inspection of construction with respect to a structure of the State of Nevada or the Nevada System of Higher Education.

3. Notwithstanding any other provision of law, the State and its political subdivisions shall comply with all zoning regulations adopted pursuant to this chapter, except for the expansion of any activity existing on April 23, 1971.

4. A governing body shall amend its building codes and, if necessary, its zoning ordinances and regulations to permit the use of:

(a) Straw or other materials and technologies which conserve scarce natural resources or resources that are renewable in the construction of a structure; and

(b) Systems which use solar or wind energy to reduce the costs of energy for a structure if such systems and structures are otherwise in compliance with applicable building codes and zoning



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ordinances, including those relating to the design, location and soundness of such systems and structures,
➔ to the extent the local climate allows for the use of such materials, technologies, resources and systems.

5. The amendments required by subsection 4 may address, without limitation:

(a) The inclusion of characteristics of land and structures that are most appropriate for the construction and use of systems using solar and wind energy.

(b) The recognition of any impediments to the development of systems using solar and wind energy.

(c) The preparation of design standards for the construction, conversion or rehabilitation of new and existing systems using solar and wind energy.

6. A governing body shall amend its building codes to include:

(a) The seismic provisions of the International Building Code published by the International Code Council; and

(b) Standards for the investigation of hazards relating to seismic activity, including, without limitation, potential surface ruptures and liquefaction.

Sec. 8. Chapter 113 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Before a purchaser of property that has been designated as territory in the vicinity of a military installation or a high noise or accident potential zone pursuant to section 3 of this act signs a sales agreement, the seller shall, by separate written document, disclose to the purchaser:

(a) The designation of the property as territory in the vicinity of a military installation or as a high noise or accident potential zone, as applicable; and

(b) That the property is subject to the requirements of sections 3, 4 and 5 of this act.

2. The written document required by subsection 1 must contain the following language:

This property is located within territory in the vicinity of a military installation and may be subject to the potential for increased noise and accidents.

3. The seller shall retain a copy of the disclosure document that has been signed by the purchaser acknowledging the date of receipt by the purchaser of the original document.

4. As used in this section:

(a) "High noise or accident potential zone" has the meaning ascribed to it in section 3 of this act.



(b) "Territory in the vicinity of a military installation" has the meaning ascribed to it in section 2 of this act.

Sec. 9. NRS 113.100 is hereby amended to read as follows:

113.100 As used in NRS 113.100 to 113.150, inclusive, ***and section 8 of this act***, unless the context otherwise requires:

1. "Defect" means a condition that materially affects the value or use of residential property in an adverse manner.

2. "Disclosure form" means a form that complies with the regulations adopted pursuant to NRS 113.120.

3. "Dwelling unit" means any building, structure or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one person who maintains a household or by two or more persons who maintain a common household.

4. "Residential property" means any land in this state to which is affixed not less than one nor more than four dwelling units.

5. "Seller" means a person who sells or intends to sell any residential property.

Sec. 10. NRS 244.3675 is hereby amended to read as follows:

244.3675 Subject to the limitations set forth in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, ***and section 5 of this act***, the boards of county commissioners within their respective counties may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the county.

2. Adopt any building, electrical, housing, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada or the Nevada System of Higher Education.

Sec. 11. NRS 268.413 is hereby amended to read as follows:

268.413 Subject to the limitations contained in NRS 244.368, 278.580, 278.582, 444.340 to 444.430, inclusive, and 477.030, ***and section 5 of this act***, the city council or other governing body of an incorporated city may:

1. Regulate all matters relating to the construction, maintenance and safety of buildings, structures and property within the city.

2. Adopt any building, electrical, plumbing or safety code necessary to carry out the provisions of this section and establish such fees as may be necessary. Except as otherwise provided in NRS 278.580, these fees do not apply to the State of Nevada or the Nevada System of Higher Education.

