

SENATE BILL NO. 93—SENATOR LEE

PREFILED JANUARY 25, 2011

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to military installations. (BDR 22-39)

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 the inclusion of a military activities plan in a master plan in certain circumstances; requiring owners of property located in an area covered by a military activities plan 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 or county in the jurisdiction of the planning commission for adoption by the
4 governing body of the city or county and sets forth the subject matter of the master
5 plan. (NRS 278.150-278.230) **Sections 1 and 3** of this bill require that the master
6 plan of a city or county include a military activities plan at the request of the
7 commander of a military installation at which 1,000 or more service members are
8 permanently assigned and which is located in the city or county. **Section 2** of this
9 bill describes the contents of the military activities plan. **Section 8** of this bill
10 requires an owner of property located in an area covered by a military activities
11 plan to disclose information concerning the military activities plan to a potential
12 buyer of the property. **Section 10** of this bill provides that a military activities plan
13 adopted by a city or county in its master plan does not apply to any property for
14 which a development agreement has been entered into with a city or county before
15 October 1, 2011, or for which any land use entitlements were granted before that
16 date, or to any amendments, modifications, extensions or additions made to such an
17 agreement on or after October 1, 2011, or any land use entitlements granted for
18 such property on or after October 1, 2011.



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

Section 1. NRS 278.150 is hereby amended to read as follows:

278.150 1. The planning commission shall prepare and adopt a comprehensive, long-term general plan for the physical development of the city, county or region which in the commission's judgment bears relation to the planning thereof.

2. The plan must be known as the master plan, and must be so prepared that all or portions thereof, except as otherwise provided in subsections 3 ~~and 4~~, *4 and 5*, may be adopted by the governing body, as provided in NRS 278.010 to 278.630, inclusive, as a basis for the development of the city, county or region for such reasonable period of time next ensuing after the adoption thereof as may practically be covered thereby.

3. ~~Ha~~ *Except as otherwise provided in subsection 5*, in counties whose population is 100,000 or more but less than 400,000, if the governing body of the city or county adopts only a portion of the master plan, it shall include in that portion a conservation plan, a housing plan and a population plan as provided in NRS 278.160.

4. ~~Ha~~ *Except as otherwise provided in subsection 5*, in counties whose population is 400,000 or more, the governing body of the city or county shall adopt a master plan for all of the city or county that must address each of the subjects set forth in subsection 1 of NRS 278.160.

5. *Upon the request of the commander of a military installation at which 1,000 or more service members are permanently assigned, the governing body of the city or county in which the military installation is located shall include in its master plan a military activities plan as provided in NRS 278.160.*

Sec. 2. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in ~~subsection~~ *subsections 4 and 5* of NRS 278.150 and ~~subsection~~ *subsections 3 and 4* of NRS 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following subject matter or portions thereof as are appropriate to the city, county or region, and as may 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,



1 fisheries, wildlife, minerals and other natural resources. The plan
2 must also cover the reclamation of land and waters, flood control,
3 prevention and control of the pollution of streams and other waters,
4 regulation of the use of land in stream channels and other areas
5 required for the accomplishment of the conservation plan,
6 prevention, control and correction of the erosion of soils through
7 proper clearing, grading and landscaping, beaches and shores, and
8 protection of watersheds. The plan must also indicate the maximum
9 tolerable level of air pollution.

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

14 (d) Historic neighborhood preservation plan. The plan:

15 (1) Must include, without limitation:

16 (I) A plan to inventory historic neighborhoods.

17 (II) A statement of goals and methods to encourage the
18 preservation of historic neighborhoods.

19 (2) May include, without limitation, the creation of a
20 commission to monitor and promote the preservation of historic
21 neighborhoods.

22 (e) Historical properties preservation plan. An inventory of
23 significant historical, archaeological, paleontological and
24 architectural properties as defined by a city, county or region, and a
25 statement of methods to encourage the preservation of those
26 properties.

27 (f) Housing plan. The housing plan must include, without
28 limitation:

29 (1) An inventory of housing conditions, needs and plans and
30 procedures for improving housing standards and for providing
31 adequate housing to individuals and families in the community,
32 regardless of income level.

33 (2) An inventory of existing affordable housing in the
34 community, including, without limitation, housing that is available
35 to rent or own, housing that is subsidized either directly or indirectly
36 by this State, an agency or political subdivision of this State, or the
37 Federal Government or an agency of the Federal Government, and
38 housing that is accessible to persons with disabilities.

39 (3) An analysis of projected growth and the demographic
40 characteristics of the community.

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

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



(6) An analysis of the characteristics of the land that is suitable for residential development. The analysis must include, without limitation:

(I) A determination of whether the existing infrastructure is sufficient to sustain the current needs and projected growth of the community; and

(II) An inventory of available parcels that are suitable for residential development and any zoning, environmental and other land-use planning restrictions that affect such parcels.

(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 for a period of at least 5 years.

(g) 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:

(I) Mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts; and

(II) The coordination and compatibility of land uses with any military installation in the city, county or region, taking into account the location, purpose and stated mission of the military installation.

(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.

(h) *Military activities plan. Showing the general locations of and encouraging compatible development with:*

(1) Lands used by the military, including, without limitation, installations and ranges;

(2) Areas under airspace that is designated for military activities, including, without limitation, airspace designated for special use, corridors for the approach and departure of aircraft and routes designated for military training;

(3) Ordnance safety areas;

(4) Noise contours of the military installation; and

(5) Other air and ground operational areas identified by the commander of the military installation.

(i) 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.



~~(j)~~ (j) 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.

~~(k)~~ (k) 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.

~~(l)~~ (l) 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.

~~(m)~~ (m) 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.

~~(n)~~ (n) 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.

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

~~(p)~~ (p) 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.

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

~~(r)~~ (r) Streets and highways plan. Showing 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.

~~(s)~~ (s) 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.

~~(t)~~ (t) 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. 3. NRS 278.170 is hereby amended to read as follows:

278.170 1. Except as otherwise provided in subsections 2 ~~[and 3,]~~, *3 and 4*, the commission may prepare and adopt all or any part of the master plan or any subject thereof for all or any part of the city, county or region. Master regional plans must be coordinated with similar plans of adjoining regions, and master county and city plans within each region must be coordinated so as to fit properly into the master plan for the region.

2. ~~[Hn]~~ *Except as otherwise provided in subsection 4, in* counties whose population is 100,000 or more but less than 400,000, if the commission prepares and adopts less than all subjects of the master plan, as outlined in NRS 278.160, it shall include, in its preparation and adoption, the conservation, housing and population plans described in that section.

3. ~~[Hn]~~ *Except as otherwise provided in subsection 4, in* counties whose population is 400,000 or more, the commission shall prepare and adopt a master plan for all of the city or county that must address each of the subjects set forth in subsection 1 of NRS 278.160.

4. Upon the request of the commander of a military installation at which 1,000 or more service members are permanently assigned, the commission of the city or county in which the military installation is located shall include in the master plan that it prepares and adopts a military activities plan as provided in NRS 278.160.

Sec. 4. NRS 278.220 is hereby amended to read as follows:

278.220 Except as otherwise provided in ~~[subsection]~~ *subsections 4 and 5* of NRS 278.150 and NRS 278.225:

1. Upon receipt of a certified copy of the master plan, or of any part thereof, as adopted by the planning commission, the governing body may adopt such parts thereof as may practicably be applied to the development of the city, county or region for a reasonable period of time next ensuing.

2. The parts must thereupon be endorsed and certified as master plans thus adopted for the territory covered, and are hereby declared to be established to conserve and promote the public health, safety and general welfare.

3. Before adopting any plan or part thereof, the governing body shall hold at least one public hearing thereon, notice of the time and



1 place of which must be published at least once in a newspaper of
2 general circulation in the city or counties at least 10 days before the
3 day of hearing.

4 4. No change in or addition to the master plan or any part
5 thereof, as adopted by the planning commission, may be made by
6 the governing body in adopting the same until the proposed change
7 or addition has been referred to the planning commission for a
8 report thereon and an attested copy of the report has been filed with
9 the governing body. Failure of the planning commission so to report
10 within 40 days, or such longer period as may be designated by the
11 governing body, after such reference shall be deemed to be approval
12 of the proposed change or addition.

13 **Sec. 5.** NRS 278.230 is hereby amended to read as follows:

14 278.230 1. Except as otherwise provided in ~~subsection~~
15 *subsections 4 and 5* of NRS 278.150, whenever the governing body
16 of any city or county has adopted a master plan or part thereof for
17 the city or county, or for any major section or district thereof, the
18 governing body shall, upon recommendation of the planning
19 commission, determine upon reasonable and practical means for
20 putting into effect the master plan or part thereof, in order that the
21 same will serve as:

22 (a) A pattern and guide for that kind of orderly physical growth
23 and development of the city or county which will cause the least
24 amount of natural resource impairment and will conform to the
25 adopted population plan, where required, and ensure an adequate
26 supply of housing, including affordable housing; and

27 (b) A basis for the efficient expenditure of funds thereof relating
28 to the subjects of the master plan.

29 2. The governing body may adopt and use such procedure as
30 may be necessary for this purpose.

31 **Sec. 6.** NRS 278.4787 is hereby amended to read as follows:

32 278.4787 1. Except as otherwise provided in subsection 5, a
33 person who proposes to divide land for transfer or development into
34 four or more lots pursuant to NRS 278.360 to 278.460, inclusive, or
35 chapter 278A of NRS, may, in lieu of providing for the creation of
36 an association for a common-interest community, request the
37 governing body of the jurisdiction in which the land is located to
38 assume the maintenance of one or more of the following
39 improvements located on the land:

40 (a) Landscaping;

41 (b) Public lighting;

42 (c) Security walls; and

43 (d) Trails, parks and open space which provide a substantial
44 public benefit or which are required by the governing body for the
45 primary use of the public.



2. A governing body shall establish by ordinance a procedure pursuant to which a request may be submitted pursuant to subsection 1 in the form of a petition, which must be signed by a majority of the owners whose property will be assessed and which must set forth descriptions of all tracts of land or residential units that would be subject to such an assessment.

3. The governing body may by ordinance designate a person to approve or disapprove a petition submitted pursuant to this section. If the governing body adopts such an ordinance, the ordinance must provide, without limitation:

(a) Procedures pursuant to which the petition must be reviewed to determine whether it would be desirable for the governing body to assume the maintenance of the proposed improvements.

(b) Procedures for the establishment of a maintenance district or unit of assessment.

(c) A method for:

(1) Determining the relative proportions in which the assumption of the maintenance of the proposed improvements by the governing body will:

(I) Benefit the development or subdivision in which the improvements are located; and

(II) Benefit the public;

(2) Assessing the tracts of land or residential units in the development or subdivision to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the development or subdivision in which the improvements are located; and

(3) Allocating an amount of public money to pay the costs that will be incurred by the governing body in assuming the maintenance of the proposed improvements, in the proportion that such maintenance will benefit the public.

(d) Procedures for a petitioner or other aggrieved person to appeal to the governing body a decision of the person designated by the governing body by ordinance adopted pursuant to this subsection to approve or disapprove a petition.

4. If the governing body does not designate by an ordinance adopted pursuant to subsection 3 a person to approve or disapprove a petition, the governing body shall, after receipt of a complete petition submitted at least 120 days before the approval of the final map for the land, hold a public hearing at least 90 days before the approval of the final map for the land, unless otherwise waived by the governing body, to determine the desirability of assuming the maintenance of the proposed improvements. If the governing body determines that it would be undesirable for the governing body to



1 assume the maintenance of the proposed improvements, the
2 governing body shall specify for the record its reasons for that
3 determination. If the governing body determines that it would be
4 desirable for the governing body to assume the maintenance of the
5 proposed improvements, the governing body shall by ordinance:

6 (a) Determine the relative proportions in which the assumption
7 of the maintenance of the proposed improvements by the governing
8 body will:

9 (1) Benefit the development or subdivision in which the
10 improvements are located; and

11 (2) Benefit the public.

12 (b) Create a maintenance district or unit of assessment
13 consisting of the tracts of land or residential units set forth in the
14 petition or include the tracts of land or residential units set forth in
15 the petition in an existing maintenance district or unit of assessment.

16 (c) Establish the method or, if the tracts or units are included
17 within an existing maintenance district or unit of assessment, apply
18 an existing method for determining:

19 (1) The amount of an assessment to pay the costs that will be
20 incurred by the governing body in assuming the maintenance of the
21 proposed improvements. The amount of the assessment must be
22 determined in accordance with the proportion to which such
23 maintenance will benefit the development or subdivision in which
24 the improvements are located.

25 (2) The time and manner of payment of the assessment.

26 (d) Provide that the assessment constitutes a lien upon the tracts
27 of land or residential units within the maintenance district or unit of
28 assessment. The lien must be executed, and has the same priority, as
29 a lien for property taxes.

30 (e) Prescribe the levels of maintenance to be provided.

31 (f) Allocate to the cost of providing the maintenance the
32 appropriate amount of public money to pay for that part of the
33 maintenance which creates the public benefit.

34 (g) Address any other matters that the governing body
35 determines to be relevant to the maintenance of the improvements,
36 including, without limitation, matters relating to the ownership of
37 the improvements and the land on which the improvements are
38 located and any exposure to liability associated with the
39 maintenance of the improvements.

40 5. If the governing body requires an owner of land to dedicate a
41 tract of land as a trail identified in the recreation plan of the
42 governing body adopted pursuant to paragraph ~~(k)~~ (l) of subsection
43 1 of NRS 278.160, the governing body shall:

44 (a) Accept ownership of the tract; and



(b) Assume the maintenance of the tract and any other improvement located on the land that is authorized in subsection 1.

6. The governing body shall record, in the office of the county recorder for the county in which the tracts of land or residential units included in a petition approved pursuant to this section are located, a notice of the creation of the maintenance district or unit of assessment that is sufficient to advise the owners of the tracts of land or residential units that the tracts of land or residential units are subject to the assessment. The costs of recording the notice must be paid by the petitioner.

7. The provisions of this section apply retroactively to a development or subdivision with respect to which:

(a) An agreement or agreements between the owners of tracts of land within the development or subdivision and the developer allow for the provision of services in the manner set forth in this section; or

(b) The owners of affected tracts of land or residential units agree to dissolve the association for their common-interest community in accordance with the governing documents of the common-interest community upon approval by the governing body of a petition filed by the owners pursuant to this section.

Sec. 7. NRS 279.608 is hereby amended to read as follows:

279.608 1. If, at any time after the adoption of a redevelopment plan by the legislative body, the agency desires to take an action that will constitute a material deviation from the plan or otherwise determines that it would be necessary or desirable to amend the plan, the agency must recommend the amendment of the plan to the legislative body. An amendment may include the addition of one or more areas to any redevelopment area.

2. Before recommending amendment of the plan, the agency shall hold a public hearing on the proposed amendment. Notice of that hearing must be published at least 10 days before the date of hearing in a newspaper of general circulation, printed and published in the community, or, if there is none, in a newspaper selected by the agency. The notice of hearing must include a legal description of the boundaries of the area designated in the plan to be amended and a general statement of the purpose of the amendment.

3. In addition to the notice published pursuant to subsection 2, the agency shall cause a notice of hearing on a proposed amendment to the plan to be sent by mail at least 10 days before the date of the hearing to each owner of real property, as listed in the records of the county assessor, whom the agency determines is likely to be directly affected by the proposed amendment. The notice must:



(a) Set forth the date, time, place and purpose of the hearing and a physical description of, or a map detailing, the proposed amendment; and

(b) Contain a brief summary of the intent of the proposed amendment.

4. If after the public hearing, the agency recommends substantial changes in the plan which affect the master or community plan adopted by the planning commission or the legislative body, those changes must be submitted by the agency to the planning commission for its report and recommendation. The planning commission shall give its report and recommendations to the legislative body within 30 days after the agency submitted the changes to the planning commission.

5. After receiving the recommendation of the agency concerning the changes in the plan, the legislative body shall hold a public hearing on the proposed amendment, notice of which must be published in a newspaper in the manner designated for notice of hearing by the agency. If after that hearing the legislative body determines that the amendments in the plan, proposed by the agency, are necessary or desirable, the legislative body shall adopt an ordinance amending the ordinance adopting the plan.

6. As used in this section, "material deviation" means an action that, if taken, would alter significantly one or more of the aspects of a redevelopment plan that are required to be shown in the redevelopment plan pursuant to NRS 279.572. The term includes, without limitation, the vacation of a street that is depicted in the streets and highways plan of the master plan described in paragraph ~~(e)~~ (r) of subsection 1 of NRS 278.160 which has been adopted for the community and the relocation of a public park. The term does not include the vacation of a street that is not depicted in the streets and highways plan of the master plan described in paragraph ~~(e)~~ (r) of subsection 1 of NRS 278.160 which has been adopted for the community.

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 is located in an area covered by a military activities plan, as set forth in paragraph (h) of subsection 1 of NRS 278.160, signs a sales agreement, the seller shall, by separate written document, disclose to the purchaser information concerning the military activities plan.

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

This property is located in an area covered by a military activities plan, as set forth in NRS 278.160.



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

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

5 113.100 As used in NRS 113.100 to 113.150, inclusive, **and**
6 **section 8 of this act**, unless the context otherwise requires:

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

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

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

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

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

19 **Sec. 10.** The provisions of any military activities plan adopted
20 in a master plan pursuant to subsection 5 of NRS 278.150 or
21 subsection 4 of NRS 278.170, as amended by sections 1 and 3 of
22 this act, respectively, do not apply to any property for which a
23 development agreement has been entered into with a city or county
24 before October 1, 2011, or for which any land use entitlements were
25 granted before October 1, 2011, and to any amendment,
26 modification, extension or addition made to such a development
27 agreement on or after October 1, 2011, or any land use entitlement
28 granted for such property on or after October 1, 2011.

