

ASSEMBLY BILL NO. 230—ASSEMBLYMEN SWANK;
BILBRAY-AXELROD, CARRILLO AND LEAVITT

FEBRUARY 27, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing historic preservation.
(BDR 22-298)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 historic preservation; providing a procedure for the governing body of a county or city to designate a historic neighborhood; clarifying the authority of the Office of Historic Preservation of the State Department of Conservation and Natural Resources to include landmarks in its list of historic places that are eligible for listing in the State Register of Historic Places; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, local governmental entities in a county whose population is 700,000 or more (currently Clark County) are required to address the preservation of historic neighborhoods in their land use plans and regulations. (NRS 268.190, 278.02528, 278.150, 278.160, 278.170, 278.250) Existing law defines a historic neighborhood as a subdivided or developed area which: (1) consists of at least 10 residential dwelling units, of which two-thirds are 40 or more years of age; and (2) has been identified by the governing body of the county or city within which the area is located as having a distinctive character or traditional quality distinguishable from the surrounding area. (NRS 278.0153) **Section 1** of this bill provides a procedure for a governing body of any county or city to designate a historic neighborhood, including a requirement that the governing body hold a public hearing before designating an area as a historic neighborhood. This procedure is modeled on the procedure in existing law for the establishment of a historic district. (NRS 384.005) The criteria to be used to determine whether to designate an area as a historic neighborhood is moved from the definition of "historic neighborhood" in **section 3** of this bill to **section 1**. **Sections 2, 4, 5 and 8** of this bill make conforming changes.

Existing law requires the Office of Historic Preservation of the State Department of Conservation and Natural Resources to: (1) prepare and maintain the



State Register of Historic Places; (2) establish procedures, qualifications and standards for listing historic places in the State Register; and (3) prepare a list of sites, structures, objects and districts on public and private land that are eligible for inclusion in the State Register. (NRS 383.085) **Section 12** of this bill clarifies that a landmark is a site, building, structure or object that is eligible for inclusion in the State Register. **Sections 6, 7 and 9-11** of this bill make conforming changes.

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

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

1. A governing body may designate a historic neighborhood in a county or city for the purpose of promoting the educational, cultural, economic and general welfare of the public through the preservation and protection of sites, buildings, structures and areas of historic interest. To be eligible for designation as a historic neighborhood, an area must:

(a) Be subdivided or developed and consist of 10 or more residential dwelling units, of which at least two-thirds of such units must be 40 or more years of age; and

(b) Have been identified by the governing body as having a distinctive character or traditional quality that can be distinguished from surrounding areas or new developments in the vicinity. Such a character or quality may include, without limitation:

(1) Significance to the cultural, social, political or economic history of the area in which it is located;

(2) Association with a significant person, group or event in local, state or national history;

(3) Representation of an established and familiar visual feature of an area because of its location, design, architecture or singular physical appearance; or

(4) Meeting the criteria for eligibility for listing on the State or National Register of Historic Places.

2. Before designating a historic neighborhood, the governing body shall hold a public hearing. Notice of the time and the place of the hearing, the purpose of the hearing and the boundaries of the proposed historic neighborhood must be posted in a manner that, at a minimum, satisfies the requirements of subsection 3 of NRS 241.020. At the hearing, any person may appear in support of or in opposition to the establishment of the proposed historic neighborhood.

3. Within 15 days after the hearing, the governing body shall:



(a) Designate the historic neighborhood and fix its boundaries; or

(b) Determine not to establish the historic neighborhood.

4. An ordinance under which a historic neighborhood is designated must, without limitation:

(a) Contain criteria which substantially achieve the preservation and protection of sites, buildings and structures of historic significance to the historic neighborhood; and

(b) Provide for a designated review board with the power to review proposed alterations to buildings and structures within the historic neighborhood.

5. If a historic neighborhood is designated, the governing body may adopt any other ordinances that it determines are in the best interest of the historic neighborhood in accordance with the purposes expressed in subsection 1.

Sec. 2. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS 278.0103 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Sec. 3. NRS 278.0153 is hereby amended to read as follows:

278.0153 "Historic neighborhood" means ~~fa subdivided or developed~~ *an area* ~~:~~

~~— 1. Which consists of 10 or more residential dwelling units;~~

~~— 2. Where at least two thirds of the residential dwelling units are 40 or more years of age; and~~

~~— 3. Which has been identified by the governing body of the city or county within which the area is located as having a distinctive character or traditional quality that can be distinguished from surrounding areas or new developments in the vicinity. Distinguishing characteristics of a historic neighborhood may include, without limitation:~~

~~— (a) Significance to the cultural, social, political or economic history of the area in which it is located;~~

~~— (b) Association with a significant person, group or event in local, state or national history;~~

~~— (c) Representation of an established and familiar visual feature of an area because of its location, design, architecture or singular physical appearance; or~~

~~— (d) Meeting the criteria for eligibility for listing on the State or National Register of Historic Places.~~ *designated as a historic neighborhood pursuant to section 1 of this act.*

Sec. 4. NRS 278.0235 is hereby amended to read as follows:

278.0235 No action or proceeding may be commenced for the purpose of seeking judicial relief or review from or with respect to



any final action, decision or order of any governing body, commission or board authorized by NRS 278.010 to 278.630, inclusive, *and section 1 of this act*, unless the action or proceeding is commenced within 25 days after the date of filing of notice of the final action, decision or order with the clerk or secretary of the governing body, commission or board.

Sec. 5. NRS 278.640 is hereby amended to read as follows:

278.640 If after July 1, 1975, there is any land lying within the boundaries of any county of this State which has not been made subject to a comprehensive land use plan pursuant to NRS 278.150, and zoning regulations pursuant to the provisions of NRS 278.010 to 278.630, inclusive, *and section 1 of this act*, the provisions of NRS 278.640 to 278.675, inclusive, apply to the extent and in the manner indicated therein.

Sec. 6. NRS 206.330 is hereby amended to read as follows:

206.330 1. Unless a greater criminal penalty is provided by a specific statute, a person who places graffiti on or otherwise defaces the public or private property, real or personal, of another, without the permission of the owner:

(a) Where the value of the loss is less than \$250, is guilty of a misdemeanor.

(b) Where the value of the loss is \$250 or more but less than \$5,000, is guilty of a gross misdemeanor.

(c) Where the value of the loss is \$5,000 or more or where the damage results in the impairment of public communication, transportation or police and fire protection, is guilty of a category E felony and shall be punished as provided in NRS 193.130. If the court grants probation to such a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.

(d) Where the offense is committed on any protected site in this State, is guilty of a category D felony and shall be punished as provided in NRS 193.130. If the court grants probation to such a person, the court shall require as a condition of probation that the person serve at least 10 days in the county jail.

2. Unless a greater penalty is provided by a specific statute, a person who has previously been convicted of a violation of subsection 1:

(a) Two or more times; or

(b) That was punished as a felony,

➔ and who violates subsection 1, regardless of the value of the loss, is guilty of a category D felony and shall be punished as provided in NRS 193.130.

3. If a person commits more than one offense pursuant to a scheme or continuing course of conduct, the value of all property



1 damaged or destroyed by that person in the commission of those
2 offenses must be aggregated for the purpose of determining the
3 penalty prescribed in subsection 1, but only if the value of the loss
4 when aggregated is \$500 or more.

5 4. A person who violates subsection 1 shall, in addition to any
6 other fine or penalty imposed:

7 (a) For the first offense, pay a fine of not less than \$400 but not
8 more than \$1,000 and perform 100 hours of community service.

9 (b) For the second offense, pay a fine of not less than \$750 but
10 not more than \$1,000 and perform 200 hours of community service.

11 (c) For the third and each subsequent offense:

12 (1) Pay a fine of \$1,000; and

13 (2) Perform up to 300 hours of community service for up to 1
14 year, as determined by the court. The court may order the person to
15 repair, replace, clean up or keep free of graffiti the property
16 damaged or destroyed by the person or, if it is not practicable for the
17 person to repair, replace, clean up or keep free of graffiti that
18 specific property, the court may order the person to repair, replace,
19 clean up or keep free of graffiti another specified property.

20 ➡ The community service assigned pursuant to this subsection
21 must, if possible, be related to the abatement of graffiti.

22 5. The court may, in addition to any other fine or penalty
23 imposed, order a person who violates subsection 1 to pay restitution.

24 6. The parent or legal guardian of a person under 18 years of
25 age who violates this section is liable for all fines and penalties
26 imposed against the person. If the parent or legal guardian is unable
27 to pay the fine and penalties resulting from a violation of this
28 section because of financial hardship, the court may require the
29 parent or legal guardian to perform community service.

30 7. If a person who is 18 years of age or older is found guilty of
31 violating this section, the court shall, in addition to any other penalty
32 imposed, issue an order suspending the driver's license of the person
33 for not less than 6 months but not more than 2 years. The court shall
34 require the person to surrender all driver's licenses then held by the
35 person. If the person does not possess a driver's license, the court
36 shall issue an order prohibiting the person from applying for a
37 driver's license for not less than 6 months but not more than 2 years.
38 The court shall, within 5 days after issuing the order, forward to the
39 Department of Motor Vehicles any licenses together with a copy of
40 the order.

41 8. The Department of Motor Vehicles:

42 (a) Shall not treat a violation of this section in the manner
43 statutorily required for a moving traffic violation.

44 (b) Shall report the suspension of a driver's license pursuant to
45 this section to an insurance company or its agent inquiring about the



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1 person's driving record. An insurance company shall not use any
2 information obtained pursuant to this paragraph for purposes related
3 to establishing premium rates or determining whether to underwrite
4 the insurance.

5 9. A criminal penalty imposed pursuant to this section is in
6 addition to any civil penalty or other remedy available pursuant to
7 this section or another statute for the same conduct.

8 10. As used in this section:

9 (a) "Impairment" means the disruption of ordinary and
10 incidental services, the temporary loss of use or the removal of the
11 property from service for repair of damage.

12 (b) "Protected site" means:

13 (1) Any site, landmark, monument, building or structure of
14 historical significance pertaining to the history of the settlement of
15 Nevada;

16 (2) Any site, building, structure, object or district listed in the
17 register of historic resources of a community which is recognized as
18 a Certified Local Government pursuant to the Certified Local
19 Government Program jointly administered by the National Park
20 Service and the Office of Historic Preservation of the State
21 Department of Conservation and Natural Resources;

22 (3) Any site, building, structure ~~H~~ or object , *including,*
23 *without limitation, a landmark,* or district listed in the State
24 Register of Historic Places pursuant to NRS 383.085 or the National
25 Register of Historic Places;

26 (4) Any site, building, structure, object or district that is more
27 than 50 years old and is located in a municipal or state park;

28 (5) Any Indian campgrounds, shelters, petroglyphs,
29 pictographs and burials; or

30 (6) Any archeological or paleontological site, ruin, deposit,
31 fossilized footprints and other impressions, petroglyphs and
32 pictographs, habitation caves, rock shelters, natural caves, burial
33 ground or sites of religious or cultural importance to an Indian tribe.

34 (c) "Value of the loss" means the cost of repairing, restoring or
35 replacing the property, including, without limitation, the cost of any
36 materials and labor necessary to repair, restore or replace the item.

37 **Sec. 7.** NRS 244A.6825 is hereby amended to read as follows:

38 244A.6825 "Historic structure" means a building, facility or
39 other structure , *including, without limitation, a landmark,* which is
40 eligible for listing in the State Register of Historic Places under
41 NRS 383.085.

42 **Sec. 8.** NRS 268.190 is hereby amended to read as follows:

43 268.190 Except as otherwise provided by law, the city
44 planning commission may:



1 1. Recommend and advise the city council and all other public
2 authorities concerning:

3 (a) The laying out, widening, extending, paving, parking and
4 locating of streets, sidewalks and boulevards.

5 (b) The betterment of housing and sanitary conditions, and the
6 establishment of zones or districts within which lots or buildings
7 may be restricted to residential use, or from which the
8 establishment, conduct or operation of certain business,
9 manufacturing or other enterprises may be excluded, and limiting
10 the height, area and bulk of buildings and structures therein.

11 2. Recommend to the city council and all other public
12 authorities plans and regulations for the future growth, development
13 and beautification of the municipality in respect to its public and
14 private buildings and works, streets, parks, grounds and vacant lots,
15 which must include for each city a population plan if required by
16 NRS 278.170, a plan for the development of affordable housing and,
17 for each city located in a county whose population is 700,000 or
18 more, a plan to inventory and preserve *areas as* historic
19 neighborhoods **H** *pursuant to section 1 of this act.*

20 3. Perform any other acts and things necessary or proper to
21 carry out the provisions of NRS 268.110 to 268.220, inclusive, and
22 in general to study and propose such measures as may be for the
23 municipal welfare and in the interest of protecting the municipal
24 area's natural resources from impairment.

25 **Sec. 9.** NRS 321.404 is hereby amended to read as follows:

26 321.404 "Historic building" means a site, building, structure **H**
27 *or object , including, without limitation, a landmark,* or district
28 which is eligible for or included in the State Register of Historic
29 Places pursuant to NRS 383.085 or the National Register of Historic
30 Places or is otherwise of historical significance.

31 **Sec. 10.** NRS 349.485 is hereby amended to read as follows:

32 349.485 "Historic structure" means a building, facility or other
33 structure , *including, without limitation, a landmark,* which is
34 eligible for listing in the State Register of Historic Places under
35 NRS 383.085.

36 **Sec. 11.** NRS 350.575 is hereby amended to read as follows:

37 350.575 1. Upon the adoption of a resolution to finance the
38 preservation or restoration of a historic structure, in the manner
39 provided in NRS 350.087, by a municipality, a certified copy
40 thereof must be forwarded to the Executive Director of the
41 Department of Taxation, accompanied by a letter from the Office of
42 Historic Preservation of the State Department of Conservation and
43 Natural Resources certifying that the preservation or restoration
44 conforms to accepted standards for such work. As soon as is
45 practicable, the Executive Director of the Department of Taxation



shall, after consideration of the tax structure of the municipality concerned and the probable ability of the municipality to repay the requested financing, approve or disapprove the resolution in writing to the governing board. No such resolution is effective until approved by the Executive Director of the Department of Taxation. The written approval of the Executive Director of the Department of Taxation must be recorded in the minutes of the governing board.

2. If the Executive Director of the Department of Taxation does not approve the financing resolution, the governing board of the municipality may appeal the Executive Director's decision to the Nevada Tax Commission.

3. As used in this section, "historic structure" means a building, facility or other structure, *including, without limitation, a landmark*, which is eligible for listing in the State Register of Historic Places under NRS 383.085.

Sec. 12. NRS 383.085 is hereby amended to read as follows:

383.085 1. The Office shall prepare and maintain the State Register of Historic Places.

2. The Office shall establish procedures, qualifications and standards for listing historic places in the State Register.

3. The Office shall prepare a list of eligible sites, *buildings, structures* ~~and~~ *and* objects, *including, without limitation, landmarks*, and districts on public and private land.

4. The Administrator may, by agreement with the appropriate state agency or private owner, place any site, *building*, structure ~~or~~ object, *including, without limitation, a landmark*, or district which is located on state or private land in the State Register. The Administrator may by agreement with the appropriate federal agency place any site, *building*, structure ~~or~~ object, *including, without limitation, a landmark*, or district which is located on federal land in the State Register.

Sec. 13. The amendatory provisions of sections 1 and 3 of this act do not apply to an area designated by the governing body of a county or city as a historic neighborhood before July 1, 2019.

Sec. 14. This act becomes effective on July 1, 2019.

