

ASSEMBLY BILL NO. 211—ASSEMBLYWOMAN JAUREGUI

MARCH 9, 2021

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to land use planning.
(BDR 22-795)

FISCAL NOTE: Effect on Local Government: No.
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 land use planning; requiring a copy of the tentative map of the design of a proposed subdivision of land to be forwarded to the Department of Wildlife for review; revising the factors that are considered before taking final action on a tentative map; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law sets forth an approval process for the subdivision of land that requires a subdivider of land to submit a tentative map to the planning commission or governing body of a county or city, as applicable. (NRS 278.330) Existing law also requires the tentative map to be forwarded to certain state agencies and local governments for review. (NRS 278.335)

Section 1.5 of this bill requires the tentative map to be forwarded to the Department of Wildlife for review unless the governing body has adopted a habitat conservation plan for multiple species that includes a determination of the impact to wildlife and wildlife habitat and the habitat conservation plan was approved by the United States Fish and Wildlife Service. **Section 1.2** of this bill authorizes the Board of Wildlife Commissioners to establish by regulation certain fees for the review of a tentative map by the Department. **Section 2.5** of this bill makes a conforming change related to the requirement in **section 1.2** to deposit such fees in the Wildlife Account in the State General Fund.

Existing law requires a governing body or planning commission to consider certain factors before taking final action on a tentative map. (NRS 278.349) **Section 2** of this bill additionally requires the governing body or planning commission to consider the potential impact to wildlife and wildlife habitat before taking final action on a tentative map.



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

Section 1. (Deleted by amendment.)

Sec. 1.2. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The Board of Wildlife Commissioners may establish by regulation reasonable fees for the review of a tentative map by the Department of Wildlife pursuant to NRS 278.335. The amount of such fees for the Department to review a tentative map must not exceed a flat fee of \$250 plus an additional fee of not more than \$5 per acre shown on the tentative map.

2. All fees collected pursuant to subsection 1 must be deposited in the Wildlife Account in the State General Fund pursuant to NRS 501.356.

3. The Board of Wildlife Commissioners may adopt any other regulations necessary for the Department of Wildlife to carry out its duties pursuant to NRS 278.335.

Sec. 1.3. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 1.2 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. 1.5. NRS 278.335 is hereby amended to read as follows:

278.335 1. A copy of the tentative map must be forwarded by the planning commission or its designated representative, or if there is no planning commission, the clerk or other designated representative of the governing body, for review to:

(a) The Division of Water Resources and the Division of Environmental Protection of the State Department of Conservation and Natural Resources. ~~[-]~~

(b) The district board of health acting for the Division of Environmental Protection pursuant to subsection 2. ~~[-; and]~~

(c) If the subdivision is subject to the provisions of NRS 704.6672, the Public Utilities Commission of Nevada.

(d) Except as otherwise provided in this paragraph, the Department of Wildlife. This paragraph does not apply if the governing body has adopted a habitat conservation plan for multiple species of wildlife that evaluates the potential impacts to wildlife and wildlife habitats from the development of land, including, without limitation, any determination of impact to wildlife and wildlife habitat required pursuant to federal law, and the habitat conservation plan has been approved by the United States Fish and Wildlife Service.



2. In a county whose population is 100,000 or more, if the county and one or more incorporated cities in the county have established a district board of health, the authority of the Division of Environmental Protection to review and certify proposed subdivisions and to conduct construction or installation inspections must be exercised by the district board of health.

3. A district board of health which conducts reviews and inspections under this section shall consider all the requirements of the law concerning sewage disposal, water pollution, water quality and water supply facilities. At least four times annually, the district board of health shall notify the Division of Environmental Protection which subdivisions met these requirements of law and have been certified by the district board of health.

4. The State is not chargeable with any expense incurred by a district board of health acting pursuant to this section.

5. Each reviewing agency shall, within 15 days after the receipt of the tentative map, file its written comments with the planning commission or the governing body recommending approval, conditional approval or disapproval and stating the reasons therefor.

Sec. 2. NRS 278.349 is hereby amended to read as follows:

278.349 1. Except as otherwise provided in subsection 2, the governing body, if it has not authorized the planning commission to take final action, shall, by an affirmative vote of a majority of all the members, approve, conditionally approve or disapprove a tentative map filed pursuant to NRS 278.330:

(a) In a county whose population is 700,000 or more, within 45 days; or

(b) In a county whose population is less than 700,000, within 60 days,

↳ after receipt of the planning commission's recommendations.

2. If there is no planning commission, the governing body shall approve, conditionally approve or disapprove a tentative map:

(a) In a county whose population is 700,000 or more, within 45 days; or

(b) In a county whose population is less than 700,000, within 60 days,

↳ after the map is filed with the clerk of the governing body.

3. The governing body, or planning commission if it is authorized to take final action on a tentative map, shall consider:

(a) Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;



(b) The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;

(c) The availability and accessibility of utilities;

(d) The availability and accessibility of public services such as schools, police protection, transportation, recreation and parks;

(e) Conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence;

(f) General conformity with the governing body's master plan of streets and highways;

(g) The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;

(h) Physical characteristics of the land such as floodplain, slope and soil;

(i) The recommendations and comments of those entities and persons reviewing the tentative map pursuant to NRS 278.330 to 278.3485, inclusive;

(j) The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands; ~~and~~

(k) *The potential impacts to wildlife and wildlife habitat; and*

(l) The submission by the subdivider of an affidavit stating that the subdivider will make provision for payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable, by the subdivider or any successor in interest.

4. The governing body or planning commission shall, by an affirmative vote of a majority of all the members, make a final disposition of the tentative map. The governing body or planning commission shall not approve the tentative map unless the subdivider has submitted an affidavit stating that the subdivider will make provision for the payment of the tax imposed by chapter 375 of NRS and for compliance with the disclosure and recording requirements of subsection 5 of NRS 598.0923, if applicable, by the subdivider or any successor in interest. Any disapproval or conditional approval must include a statement of the reason for that action.

Sec. 2.5. NRS 501.356 is hereby amended to read as follows:
501.356 1. Money received by the Department from:

(a) The sale of licenses;

(b) *Fees described in section 1.2 of this act;*



1 (c) Fees pursuant to the provisions of NRS 488.075 and
2 488.1795;

3 ~~((e))~~ (d) Remittances from the State Treasurer pursuant to the
4 provisions of NRS 365.535;

5 ~~((d))~~ (e) Appropriations made by the Legislature; and

6 ~~((e))~~ (f) All other sources, including, without limitation, the
7 Federal Government, except money derived from the forfeiture of
8 any property described in NRS 501.3857 or money deposited in the
9 Wildlife Heritage Account pursuant to NRS 501.3575, the Wildlife
10 Trust Fund pursuant to NRS 501.3585, the Energy Planning and
11 Conservation Account created by NRS 701.630 or the Account for
12 the Recovery of Costs created by NRS 701.640,

13 ➡ must be deposited with the State Treasurer for credit to the
14 Wildlife Account in the State General Fund.

15 2. The interest and income earned on the money in the Wildlife
16 Account, after deducting any applicable charges, must be credited to
17 the Account.

18 3. Except as otherwise provided in subsection 4 and NRS
19 503.597, the Department may use money in the Wildlife Account
20 only to carry out the provisions of this title and chapter 488 of NRS
21 and as provided in NRS 365.535, and the money must not be
22 diverted to any other use.

23 4. Except as otherwise provided in NRS 502.250, 502.410 and
24 504.155, all fees for the sale or issuance of stamps, tags, permits and
25 licenses that are required to be deposited in the Wildlife Account
26 pursuant to the provisions of this title and any matching money
27 received by the Department from any source must be accounted for
28 separately and must be used:

29 (a) Only for the protection, propagation and management of
30 wildlife; and

31 (b) If the fee is for the sale or issuance of a license, permit or tag
32 other than a tag specified in subsection 5 or 6 of NRS 502.250,
33 under the guidance of the Commission pursuant to subsection 2 of
34 NRS 501.181.

35 **Sec. 3.** This act becomes effective on July 1, 2021.

