

SENATE BILL NO. 349—SENATORS OHRENSCHALL; AND SCHEIBLE

MARCH 24, 2021

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to public health.
(BDR 40-90)

FISCAL NOTE: Effect on Local Government: No.
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 public health; providing that an ordinance for the licensing and regulating of farmers' markets may not prohibit the sale of unpackaged produce at a licensed farmers' market; providing that the State Board of Health or a local board of health may not adopt regulations that prohibit the sale of unpackaged produce at a licensed farmers' market; authorizing the governing body of a county or city to allow the use of certain land for community composting; authorizing a governing body of a county or city to establish an urban composting zone; providing that a master plan adopted by a planning commission or the governing body of a county or city may include an urban composting element; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law sets forth provisions governing the regulation of food
2 establishments. (Chapter 446 of NRS) Existing law also requires that such
3 provisions be enforced by the health authority, in accordance with regulations
4 adopted by the State Board of Health or a local board of health. (NRS 446.940)
5 Existing law defines "food establishment" to mean any place, structure, premises,
6 vehicle or vessel in which any food intended for ultimate human consumption is
7 manufactured or prepared, or in which any food is sold, offered or displayed. (NRS
8 446.020) Because a farmers' market is a place in which food is sold, existing law
9 requires a farmers' market to comply with provisions of law governing food
10 establishments. **Section 2** of this bill provides that the State Board of Health or a
11 local board of health may adopt regulations for the sale of unpackaged produce at a
12 licensed farmers' market, but such regulations may not prohibit the sale of
13 unpackaged produce at a licensed farmers' market.



Existing law authorizes local governments, city councils or other governing bodies to provide by ordinance for the licensing and regulating of farmers' markets. (NRS 244.337, 268.092) **Sections 5 and 7** of this bill provide that such an ordinance: (1) must not prohibit the sale of unpackaged produce at a licensed farmers' market; and (2) may otherwise regulate the sale of unpackaged produce at a licensed farmers' market.

Existing law sets forth the powers and duties of a governing body of a city or county related to planning and zoning. (Chapter 278 of NRS) **Section 7.1** of this bill authorizes a governing body of a city or county to establish an urban composting zone by ordinance. **Sections 7.3-7.5** of this bill indicate the placement of **section 7.1** in the Nevada Revised Statutes.

Sections 4.5 and 5.5 of this bill authorize a governing body of a city or county to establish by ordinance terms and conditions for the use of land owned by the city or county for the purpose of community composting. **Section 7.8** of this bill makes a conforming change to indicate the placement of **section 4.5** in the Nevada Revised Statutes.

Under existing law, a master plan may include certain elements as appropriate to a county, city or region, with the exception of certain cities and counties which must include all or a portion of certain elements in a master plan. (NRS 278.150-278.170) **Section 7.7** of this bill provides that a master plan may also include an urban composting element. An urban composting element must include a plan to inventory any lands owned by the city or county to determine if such lands may be suitable for urban composting.

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

Section 1. (Deleted by amendment.)

Sec. 2. NRS 446.940 is hereby amended to read as follows:

446.940 1. Except as provided in ~~subsection~~ **subsections 2**
H and 3, this chapter must be enforced by the health authority in
accordance with regulations hereby authorized to be adopted by the
State Board of Health to carry out the requirements of this chapter.

2. ~~1A~~ **Except as otherwise provided in subsection 3, a** local
board of health may adopt such regulations as it may deem
necessary to carry out the requirements of this chapter. Such
regulations:

(a) Become effective when approved by the State Board of
Health;

(b) Must be enforced by the health authority; and

(c) Supersede the regulations adopted by the State Board of
Health pursuant to subsection 1.

3. ***The State Board of Health or a local board of health may
adopt regulations for the sale of unpackaged produce at a
farmers' market licensed pursuant to NRS 244.337 or 268.092.
Such regulations must not prohibit the sale of unpackaged
produce at a farmers' market licensed pursuant to NRS 244.337
or 268.092.***



4. All sheriffs, constables, police officers, marshals and other peace officers shall render such services and assistance to the health authority in regard to enforcement as the health authority may request.

Sec. 3. (Deleted by amendment.)

Sec. 4. (Deleted by amendment.)

Sec. 4.5. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A board of county commissioners may, by ordinance, authorize the use of county land for the purpose of community composting under such terms and conditions established for the use of the county land as set forth by the ordinance. The ordinance:

(a) May, without limitation:

(1) Establish fees for the use of the county land for a community composting location;

(2) Provide requirements for liability insurance; and

(3) Provide requirements for a deposit to use the county land for a community composting location, which may be refunded.

(b) Must require that the compostable materials be delivered to:

(1) A holder of a certificate as an actual producer of farm products pursuant to NRS 576.128; or

(2) A person or operation certified pursuant to 7 C.F.R. Part 205.

2. As used in this section, "community composting location" means a location at which members of the public may dispose of compostable materials.

Sec. 5. NRS 244.337 is hereby amended to read as follows:

244.337 1. The board of county commissioners of any county may provide by ordinance for the licensing and regulating of farmers' markets located outside of an incorporated city ~~or~~ , including, without limitation, regulating the sale of unpackaged produce at a licensed farmers' market. Any such ordinance must not prohibit the sale of unpackaged produce at a licensed farmers' market.

2. Every person who establishes a farmers' market shall make application to the board of county commissioners of the county in which the farmers' market is to be located. The application must be in a form and manner prescribed by the board of county commissioners.

3. The board of county commissioners may:

(a) Fix, impose and collect license fees upon the market.



(b) Grant or deny applications for licenses or impose conditions, limitations and restrictions upon the license.

(c) Adopt, amend and repeal regulations relating to the licenses and licensees of farmers' markets.

Sec. 5.5. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of a city may, by ordinance, authorize the use of city land for the purpose of community composting under such terms and conditions established for the use of the city land as set forth by the ordinance. The ordinance:

(a) May, without limitation:

(1) Establish fees for the use of the city land for a community composting location;

(2) Provide requirements for liability insurance; and

(3) Provide requirements for a deposit to use the city land for a community composting location, which may be refunded.

(b) Must require that the compostable materials be delivered to:

(1) A holder of a certificate as an actual producer of farm products pursuant to NRS 576.128; or

(2) A person or operation certified pursuant to 7 C.F.R. Part 205.

2. As used in this section, "community composting location" means a location at which members of the public may dispose of compostable materials.

Sec. 6. (Deleted by amendment.)

Sec. 7. NRS 268.092 is hereby amended to read as follows:

268.092 1. The city council or other governing body of any incorporated city in the State of Nevada, whether organized under general law or special charter, may provide by ordinance for the licensing and regulating of farmers' markets ***H, including, without limitation, regulating the sale of unpackaged produce at a licensed farmers' market. Any such ordinance must not prohibit the sale of unpackaged produce at a licensed farmers' market.***

2. Every person who establishes a farmers' market shall make application to the city council or other governing body of the incorporated city in which the farmers' market is to be located. The application must be in a form and manner prescribed by the city council or other governing body.

3. The city council or other governing body may:

(a) Fix, impose and collect license fees upon the market.

(b) Grant or deny applications for licenses or impose conditions, limitations and restrictions upon the license.

(c) Adopt, amend and repeal regulations relating to the licenses and licensees of farmers' markets.



Sec. 7.1. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A governing body of a city or county may, by ordinance, establish an urban composting zone within the boundaries of the city or county.

2. To establish an urban composting zone, the governing body must conduct at least one public hearing on the question of whether to establish the urban composting zone.

3. An ordinance adopted pursuant to this section:

(a) Must require that the compostable materials be delivered to:

(1) A holder of a certificate as an actual producer of farm products pursuant to NRS 576.128; or

(2) A person or operation certified pursuant to 7 C.F.R. Part 205.

(b) Must not prohibit the use of structures that support composting activities, including, without limitation, toolsheds, instructional spaces and composting bins.

Sec. 7.3. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 7.1 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. 7.4. NRS 278.024 is hereby amended to read as follows:

278.024 1. In the region of this State for which there has been created by NRS 278.780 to 278.828, inclusive, a regional planning agency, the powers conferred by NRS 278.010 to 278.630, inclusive, *and section 7.1 of this act* upon any other authority are subordinate to the powers of such regional planning agency, and may be exercised only to the extent that their exercise does not conflict with any ordinance or plan adopted by such regional planning agency. The powers conferred by NRS 278.010 to 278.630, inclusive, *and section 7.1 of this act* shall be exercised whenever appropriate in furtherance of a plan adopted by the regional planning agency.

2. Upon the adoption by a regional planning agency created by NRS 278.780 to 278.828, inclusive, of any regional plan, any plan adopted pursuant to NRS 278.010 to 278.630, inclusive, *and section 7.1 of this act* shall cease to be effective as to the territory embraced in such regional plan. Each planning commission and governing body whose previously adopted plan is so affected shall, within 90 days after the effective date of the regional plan, initiate any necessary procedure to revise its plan and any related zoning ordinances which affect adjacent territory.



Sec. 7.5. NRS 278.025 is hereby amended to read as follows:

278.025 1. In any region of this State for which there has been created by interstate compact a regional planning agency, the powers conferred by NRS 278.010 to 278.630, inclusive, **and section 7.1 of this act** are subordinate to the powers of such regional planning agency, and may be exercised only to the extent that their exercise does not conflict with any ordinance or plan adopted by such regional planning agency. The powers conferred by NRS 278.010 to 278.630, inclusive, **and section 7.1 of this act** shall be exercised whenever appropriate in furtherance of a plan adopted by the regional planning agency.

2. Upon the adoption by a regional planning agency created by interstate compact of any regional plan or interim plan, any plan adopted pursuant to NRS 278.010 to 278.630, inclusive, **and section 7.1 of this act** shall cease to be effective as to the territory embraced in such regional or interim plan. Each planning commission and governing body whose previously adopted plan is so affected shall, within 90 days after the effective date of the regional or interim plan, initiate any necessary procedure to revise its plan and any related zoning ordinances which affect adjacent territory.

Sec. 7.7. NRS 278.160 is hereby amended to read as follows:

278.160 1. Except as otherwise provided in this section and NRS 278.150 and 278.170, the master plan, with the accompanying charts, drawings, diagrams, schedules and reports, may include such of the following elements 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) A conservation element, which must include:

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

(2) A solid waste disposal plan showing general plans for the disposal of solid waste.

(b) A historic preservation element, which must include:

(1) A historic neighborhood preservation plan which:



(I) Must include, without limitation, a plan to inventory historic neighborhoods and a statement of goals and methods to encourage the preservation of historic neighborhoods.

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

(2) A historical properties preservation plan setting forth an inventory of significant historical, archaeological, paleontological and architectural properties as defined by a city, county or region, and a statement of methods to encourage the preservation of those properties.

(c) A housing element, which must include, without limitation:

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

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

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

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

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

(d) A land use element, which must include:



(1) Provisions concerning community design, including standards and principles governing the subdivision of land and suggestive patterns for community design and development.

(2) A land use plan, including 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:

(I) Must, if applicable, address mixed-use development, transit-oriented development, master-planned communities and gaming enterprise districts. The land use plan must also, if applicable, address 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.

(II) 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.

(3) In any county whose population is 700,000 or more, a rural neighborhoods preservation plan showing general plans to preserve the character and density of rural neighborhoods.

(e) A public facilities and services element, which must include:

(1) An economic plan showing recommended schedules for the allocation and expenditure of public money to provide for the economical and timely execution of the various components of the plan.

(2) A population plan setting forth 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.

(3) An aboveground utility plan that shows corridors designated for the construction of aboveground utilities and complies with the provisions of NRS 278.165.

(4) Provisions concerning public buildings showing the locations and arrangement of civic centers and all other public buildings, including the architecture thereof and the landscape treatment of the grounds thereof.

(5) Provisions concerning 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. If a public utility which provides electric service notifies the planning commission that a new transmission line or substation will be required to support the master plan, those facilities must be included in the master plan. The utility is not required to obtain an easement for any such transmission line as a



prerequisite to the inclusion of the transmission line in the master plan.

(6) A school facilities plan showing the general locations of current and future school facilities based upon information furnished by the appropriate county school district.

(f) A recreation and open space element, which must include a 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.

(g) A safety element, which must include:

(1) In any county whose population is 700,000 or more, a safety plan 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 safety plan may set forth policies for avoiding or minimizing the risks from those hazards.

(2) A 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.

(h) A transportation element, which must include:

(1) A 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.

(2) A 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.

(3) A transportation plan showing a comprehensive transportation system, including, without limitation, locations of rights-of-way, terminals, viaducts and grade separations. The transportation plan may also include port, harbor, aviation and related facilities.

(i) An urban agricultural element, which must include a plan to inventory any vacant lands owned by the city or county and blighted land in the city or county to determine whether such lands are suitable for urban farming and gardening.

(j) An urban composting element, which must include a plan to inventory any lands owned by the city or county to determine whether such lands are suitable for urban composting.



2. The commission may prepare and adopt, as part of the master plan, other and additional plans and reports dealing with such other elements 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, *and section 7.1 of this act* prohibits the preparation and adoption of any such element as a part of the master plan.

Sec. 7.8. NRS 371.047 is hereby amended to read as follows:

371.047 1. A county may use the proceeds of the tax imposed pursuant to NRS 371.043 or 371.045, or of bonds, notes or other obligations incurred to which the proceeds of those taxes are pledged to finance a project related to the construction of a highway with limited access, to:

(a) Purchase residential real property which shares a boundary with a highway with limited access or a project related to the construction of a highway with limited access, and which is adversely affected by the highway. Not more than 1 percent of the proceeds of the tax or of any bonds to which the proceeds of the tax are pledged may be used for this purpose.

(b) Pay for the cost of moving persons whose primary residences are condemned for a right-of-way for a highway with limited access and who qualify for such payments. The board of county commissioners shall, by ordinance, establish the qualifications for receiving payments for the cost of moving pursuant to this paragraph.

2. A county may, in accordance with NRS 244.265 to 244.296, inclusive, *and section 4.5 of this act*, dispose of any residential real property purchased pursuant to this section, and may reserve and except easements, rights or interests related thereto, including, but not limited to:

(a) Abutter's rights of light, view or air.

(b) Easements of access to and from abutting land.

(c) Covenants prohibiting the use of signs, structures or devices advertising activities not conducted, services not rendered or goods not produced or available on the real property.

3. Proceeds from the sale or lease of residential real property acquired pursuant to this section must be used for the purposes set forth in this section and in NRS 371.043 or 371.045, as applicable.

4. For the purposes of this section, residential real property is adversely affected by a highway with limited access if the construction or proposed use of the highway:

(a) Constitutes a taking of all or any part of the property, or interest therein;

(b) Lowers the value of the property; or

(c) Constitutes a nuisance.



1 5. As used in this section:

2 (a) “Highway with limited access” means a divided highway for
3 through traffic with full control of access and with grade separations
4 at intersections.

5 (b) “Primary residence” means a dwelling, whether owned or
6 rented by the occupant, which is the sole principal place of
7 residence of that occupant.

8 (c) “Residential real property” means a lot or parcel of not more
9 than 1.5 acres upon which a single-family or multifamily dwelling is
10 located.

11 **Sec. 8.** The amendatory provisions of sections 4.5, 5.5, 7.1 and
12 7.7 of this act do not apply to any contract for the exclusive
13 franchise to provide the services described in subsection 3 of NRS
14 244.187 or subsection 3 of NRS 268.081 that is awarded before
15 October 1, 2021, unless the contract is amended, extended or
16 renewed on or after October 1, 2021.

