Senate Bill No. 99–Committee on Government Affairs

CHAPTER.....

AN ACT relating to housing; authorizing the governing body of a city or county in certain regions to impose, under certain circumstances, a linkage fee on certain developers to pay for certain expenses related to the development of affordable housing; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the governing body of a city or county to regulate and restrict the improvement of land, taking into account the availability of and need for affordable housing in the community. (NRS 278.020) Existing law further requires the governing bodies of certain cities and counties to: (1) ensure an adequate supply of affordable housing when implementing a master plan; (2) adopt certain measures to maintain and develop affordable housing to carry out the housing plan required in the master plan; and (3) report certain information relating to affordable housing to certain entities. (NRS 278.230, 278.235, 278.237) Existing law also authorizes the governing body of a city or county to adopt zoning regulations that, in relevant part, ensure the development of an adequate supply of affordable housing in the community. In exercising such power, the governing body of the city or county is authorized to use any controls relating to land use or principles of zoning that the governing body determines to be appropriate, including, without limitation, density bonuses, inclusionary zoning and minimum density zoning. (NRS 278.250)

Existing law creates the Tahoe Regional Planning Agency as part of the Tahoe Regional Planning Compact and sets forth certain provisions regarding the governance of the Lake Tahoe region by the Agency, including provisions relating to the creation, review and amendment of a regional plan. (NRS 277.200)

Section 1 of this bill authorizes, under certain circumstances, the governing body of a city or county which is located within any region governed by a regional planning agency created by interstate compact (currently the Lake Tahoe region) to impose a linkage fee if the regional plan adopted by such a regional planning agency calls for the development of affordable housing in the region and identifies the use of linkage fees and deed restrictions as tools for the development of affordable housing on the: (1) development of any residential units in the city or county which are 1,000 square feet or more; (2) construction of any addition to existing residential units which are 750 square feet or more; and (3) remodeling of any residential units if the value of the remodeling is estimated to be more than $100,000. **Section 1** further: (1) requires such fees to be used for the purpose of paying certain fees to assist in the development of affordable housing units of a certain size which must be not more than 1,000 square feet per unit and subject to a deed restriction that requires the units to be sold or rented as affordable housing; and (2) prohibits such fees from being imposed on the development of residential units for affordable housing and certain construction or remodeling relating to accessory dwelling units that are or will be subject to a deed restriction that requires the units to be sold or rented as affordable housing. **Section 2** of this bill applies the definitions in existing law relating to planning and zoning, including the definition for "affordable housing," to the provisions of **section 1**. **Section 4** of this bill provides that the powers granted by **section 1** are subordinate to the powers of a regional planning agency created by interstate compact. **Section 3** of this bill applies certain provisions relating to judicial relief from or review of any final

action, decisions or order of a governing body to an action or proceeding which arises from the provisions of **section 1**.

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets [~~omitted material~~] is material to be omitted.

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. Except as otherwise provided in subsection 4, if, in any region of this State for which there has been created by interstate compact a regional planning agency, the regional plan adopted by the regional planning agency calls for the development of affordable housing in the region and identifies the use of linkage fees and deed restrictions as tools for the development of such affordable housing, the governing body of a city or county located within the region that is governed by the regional planning agency may impose a linkage fee on the:

(a) Development of any residential units in the city or county which are 1,000 square feet or more;

(b) Construction of any addition to any existing residential units which are 750 square feet or more; or

(c) Remodeling of any existing residential units if the value of the remodeling is estimated to be more than $100,000,

➥ to assist in the development of affordable housing that the governing body determines will be necessary as a result of the development, construction or remodeling, as applicable.

2. The determination of the governing body required pursuant to subsection 1 must be based on a finding that there is an essential nexus between the new development, construction or remodeling, as applicable, and the need for affordable housing.

3. The linkage fee imposed pursuant to subsection 1 must be:

(a) Roughly proportional in nature and extent to the impact of the proposed new development, construction or remodeling, as applicable;

(b) Used to assist in the development of affordable housing which must be:

(1) Not more than 1,000 square feet per unit of affordable housing; and

(2) Subject to a deed restriction that requires that the affordable housing be sold or rented as affordable housing; and

(c) Used to offset any:

(1) Costs for utility hookups; and

(2) Impact or mitigation fees imposed by the governing body on new construction projects.

4. A governing body may not impose a linkage fee pursuant to subsection 1 on the:

(a) Development of residential units for affordable housing; or

(b) Construction of any addition to or remodeling of an existing residential unit that is undertaken primarily for the purpose of constructing or remodeling an accessory dwelling unit that is or will be subject to a deed restriction that requires the accessory dwelling unit to be sold or rented as affordable housing.

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 278.0235 is hereby amended to read as follows:

278.0235 1. 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.

2. A petitioner or cross-petitioner who is seeking judicial review must serve and file a memorandum of points and authorities within 40 days after an action is commenced.

3. The respondent or cross-petitioners shall serve and file a reply memorandum of points and authorities within 30 days after the service of the memorandum of points and authorities.

4. The petition or cross-petitioner may serve and file a reply memorandum of points and authorities within 30 days after service of the reply memorandum.

5. Within 7 days after the expiration of the time within which the petitioner is required to reply, any party may request a hearing. Unless a request for hearing has been filed, the matter shall be deemed submitted.

6. All memoranda of points and authorities filed in proceedings involving petitions for judicial review must be in the form provided for appellate briefs in Rule 28 of the Nevada Rules of Appellate Procedure.

7. The court, for good cause, may extend the times allowed in this section for filing memoranda.

Sec. 4. 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 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 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 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.

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