

---

---

ASSEMBLY BILL NO. 291—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 13, 2003

Referred to Committee on Government Affairs

SUMMARY—Provides for abolishment of city and county planning commissions in certain larger counties. (BDR 22-728)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

~

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

---

---

AN ACT relating to land use planning; providing in skeleton form for the abolishment of city and county planning commissions in certain larger counties; providing for the continued employment, without loss of position, seniority or benefits, of the staffs of those former planning commissions with the governing bodies of the applicable cities and counties; and providing other matters properly relating thereto.

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

- 1     **Section 1.** Chapter 278 of NRS is hereby amended by adding  
2     thereto a new section to read as follows:  
3     ***1. No person may commence operation in a county whose***  
4     ***population is 400,000 or more or any city in such a county of a***  
5     ***facility where an explosive, or a substance listed in NRS 459.3816,***  
6     ***the regulations adopted pursuant thereto or the regulations***  
7     ***adopted pursuant to NRS 459.3833, will be used, manufactured,***  
8     ***processed, transferred or stored without first obtaining a***  
9     ***conditional use permit therefor from the governing body of the city***  
10    ***or county in which the facility is to be located. Each governing***  
11    ***body shall establish by local ordinance, in accordance with the***  
12    ***provisions of this section, the procedures for obtaining such a***  
13    ***permit.***



- 1       2. *An application for a conditional use permit must be filed*  
2 *with the governing body of the city or county in which the facility*  
3 *is to be located. The governing body shall, within 90 days after the*  
4 *filing of an application, hold a public hearing to consider the*  
5 *application. The governing body shall, at least 30 days before*  
6 *the date of the hearing, cause notice of the time, date, place and*  
7 *purpose of the hearing to be:*
- 8       (a) *Sent by mail or, if requested by a party to whom notice*  
9 *must be provided pursuant to this paragraph, by electronic means*  
10 *if receipt of such an electronic notice can be verified, to:*
- 11       (1) *The applicant;*  
12       (2) *Each owner or tenant of real property located within*  
13 *1,000 feet of the property in question;*  
14       (3) *The owner, as listed on the county assessor's records, of*  
15 *each of the 30 separately owned parcels nearest the property in*  
16 *question, to the extent this notice does not duplicate the notice*  
17 *given pursuant to subparagraph (2);*  
18       (4) *If a mobile home park or multiple-unit residence is*  
19 *located within 1,000 feet of the property in question, each tenant*  
20 *of that mobile home park or multiple-unit residence;*  
21       (5) *Any advisory board that has been established for the*  
22 *affected area by the governing body;*  
23       (6) *The Administrator of the Division of Environmental*  
24 *Protection of the State Department of Conservation and Natural*  
25 *Resources;*  
26       (7) *The State Fire Marshal; and*  
27       (8) *The Administrator of the Division of Industrial*  
28 *Relations of the Department of Business and Industry; and*  
29       (b) *Published in a newspaper of general circulation within the*  
30 *city or county in which the property in question is located.*
- 31       3. *The notice required by subsection 2 must:*  
32       (a) *Be written in language that is easy to understand; and*  
33       (b) *Include a physical description or map of the property in*  
34 *question and a description of all explosives, and all substances*  
35 *described in subsection 1, that will be located at the facility.*
- 36       4. *In considering the application, the governing body shall:*  
37       (a) *Consult with:*  
38       (1) *Local emergency planning committees;*  
39       (2) *The Administrator of the Division of Environmental*  
40 *Protection of the State Department of Conservation and Natural*  
41 *Resources;*  
42       (3) *The State Fire Marshal;*  
43       (4) *The Administrator of the Division of Industrial*  
44 *Relations of the Department of Business and Industry; and*



- 1           (5) *The governing body of any other city or county that may*
- 2 *be affected by the operation of the facility; and*
- 3           (b) *Consider fully the effect the facility will have on the health*
- 4 *and safety of the residents of the city or county.*
- 5       5. *The governing body shall, within 30 days after the public*
- 6 *hearing:*
- 7           (a) *Grant or deny the conditional use permit; and*
- 8           (b) *If it grants the conditional use permit, set forth such terms*
- 9 *and conditions for the operation of the facility as it deems*
- 10 *necessary for the protection of the health and safety of the*
- 11 *residents of the city or county.*
- 12       6. *Notwithstanding any provision of this section to the*
- 13 *contrary, the provisions of this section do not apply to the mining*
- 14 *industry.*
- 15       7. *Except as otherwise provided in subsection 8, as used in*
- 16 *this section, "explosive" means gunpowders, powders used for*
- 17 *blasting, all forms of high explosives, blasting materials, fuses*
- 18 *other than electric circuit breakers, detonators and other*
- 19 *detonating agents, smokeless powders, other explosive or*
- 20 *incendiary devices and any chemical compound, mechanical*
- 21 *mixture or device that contains any oxidizing or combustible units,*
- 22 *or other ingredients, in such proportions, quantities or packing*
- 23 *that ignition by fire, friction, concussion, percussion or detonation*
- 24 *of the compound, mixture, device or any part thereof may cause*
- 25 *an explosion.*
- 26       8. *For the purposes of this section, an explosive does not*
- 27 *include:*
- 28           (a) *Ammunition for small arms or any component thereof;*
- 29           (b) *Black powder commercially manufactured in quantities*
- 30 *that do not exceed 50 pounds, percussion caps, safety and*
- 31 *pyrotechnic fuses, quills, quick and slow matches, and friction*
- 32 *primers that are intended to be used solely for sporting, recreation*
- 33 *or cultural purposes:*
- 34           (1) *In an antique firearm, as that term is defined in 18*
- 35 *U.S.C. § 921(a)(16), as that section existed on January 1, 1999; or*
- 36           (2) *In an antique device which is exempted from the*
- 37 *definition of "destructive device" pursuant to 18 U.S.C.*
- 38 *§ 921(a)(4), as that section existed on January 1, 1999; or*
- 39           (c) *Any explosive that is manufactured under the regulation of*
- 40 *a military department of the United States, or that is distributed to,*
- 41 *or possessed or stored by, the military or naval service or any other*
- 42 *agency of the United States, or an arsenal, a navy yard, a depot or*
- 43 *any other establishment owned by or operated on behalf of the*
- 44 *United States.*



1       **Sec. 2.** NRS 278.030 is hereby amended to read as follows:  
2       278.030 1. ~~[The]~~ *Except as otherwise provided in subsection*  
3 *3, the* governing body of each city whose population is 25,000 or  
4 more and of each county whose population is 40,000 or more shall  
5 create by ordinance a planning commission to consist of seven  
6 members.

7       2. ~~[Cities]~~ *Except as otherwise provided in subsection 3, cities*  
8 whose population is less than 25,000 and counties whose population  
9 is less than 40,000 may create by ordinance a planning commission  
10 to consist of seven members. If the governing body of any city  
11 whose population is less than 25,000 or of any county whose  
12 population is less than 40,000 deems the creation of a planning  
13 commission unnecessary or inadvisable, the governing body may, in  
14 lieu of creating a planning commission as provided in this  
15 subsection, perform all the functions and have all of the powers  
16 which would otherwise be granted to and be performed by the  
17 planning commission.

18       3. *The governing body of each county whose population is*  
19 *400,000 or more and the governing body of each city in such a*  
20 *county:*

21       (a) *Shall not create a planning commission by ordinance or by*  
22 *any other means; and*

23       (b) *Shall, in lieu of creating a planning commission as*  
24 *provided in subsection 1 or 2, perform all the functions and have*  
25 *all the powers which would otherwise be granted to and be*  
26 *performed by the planning commission.*

27       4. *A governing body that is described in subsection 3 shall*  
28 *hire such staff as the governing body determines necessary for the*  
29 *performance of the functions and the exercise of the powers set*  
30 *forth in paragraph (b) of subsection 3.*

31       **Sec. 3.** NRS 278.147 is hereby amended to read as follows:

32       278.147 1. No person may commence operation in ~~[this state]~~  
33 *a county whose population is less than 400,000 or in any city in*  
34 *that county* of a facility where an explosive, or a substance listed in  
35 NRS 459.3816, the regulations adopted pursuant thereto or the  
36 regulations adopted pursuant to NRS 459.3833, will be used,  
37 manufactured, processed, transferred or stored without first  
38 obtaining a conditional use permit therefor from the governing body  
39 of the city or county in which the facility is to be located. Each  
40 governing body shall establish by local ordinance, in accordance  
41 with the provisions of this section, the procedures for obtaining such  
42 a permit.

43       2. An application for a conditional use permit must be filed  
44 with the planning commission of the city, county or region in which  
45 the facility is to be located. The planning commission shall, within



1 90 days after the filing of an application, hold a public hearing to  
2 consider the application. The planning commission shall, at least 30  
3 days before the date of the hearing, cause notice of the time, date,  
4 place and purpose of the hearing to be:  
5 (a) Sent by mail ~~to~~ or, if requested by a party to whom notice  
6 must be provided pursuant to this paragraph, by electronic means if  
7 receipt of such an electronic notice can be verified, to:  
8 (1) The applicant;  
9 (2) Each owner or tenant of real property located within  
10 1,000 feet of the property in question;  
11 (3) The owner, as listed on the county assessor's records, of  
12 each of the 30 separately owned parcels nearest the property in  
13 question, to the extent this notice does not duplicate the notice given  
14 pursuant to subparagraph (2);  
15 (4) If a mobile home park or multiple-unit residence is  
16 located within 1,000 feet of the property in question, each tenant of  
17 that mobile home park or multiple-unit residence;  
18 (5) Any advisory board that has been established for the  
19 affected area by the governing body;  
20 (6) The Administrator of the Division of Environmental  
21 Protection of the State Department of Conservation and Natural  
22 Resources;  
23 (7) The State Fire Marshal; and  
24 (8) The Administrator of the Division of Industrial Relations  
25 of the Department of Business and Industry; and  
26 (b) Published in a newspaper of general circulation within the  
27 city or county in which the property in question is located.  
28 3. The notice required by subsection 2 must:  
29 (a) Be written in language that is easy to understand; and  
30 (b) Include a physical description or map of the property in  
31 question and a description of all explosives, and all substances  
32 described in subsection 1, that will be located at the facility.  
33 4. In considering the application, the planning commission  
34 shall:  
35 (a) Consult with:  
36 (1) Local emergency planning committees;  
37 (2) The Administrator of the Division of Environmental  
38 Protection of the State Department of Conservation and Natural  
39 Resources;  
40 (3) The State Fire Marshal;  
41 (4) The Administrator of the Division of Industrial Relations  
42 of the Department of Business and Industry; and  
43 (5) The governing body of any other city or county that may  
44 be affected by the operation of the facility; and



1 (b) Consider fully the effect the facility will have on the health  
2 and safety of the residents of the city, county or region.

3 5. The planning commission shall, within a reasonable time  
4 after the public hearing, submit to the governing body its  
5 recommendations for any actions to be taken on the application. If  
6 the planning commission recommends that a conditional use permit  
7 be granted to the applicant, ~~the~~ *the planning commission* shall  
8 include in its recommendations such terms and conditions for the  
9 operation of the facility as it deems necessary for the protection of  
10 the health and safety of the residents of the city, county or region.

11 6. The governing body shall, within 30 days after the receipt of  
12 the recommendations of the planning commission, hold a public  
13 hearing to consider the application. The governing body shall:

14 (a) Cause notice of the hearing to be given in the manner  
15 prescribed by subsection 2; and

16 (b) Grant or deny the conditional use permit within 30 days after  
17 the public hearing.

18 7. Notwithstanding any provision of this section to the  
19 contrary, the provisions of this section do not apply to the mining  
20 industry.

21 8. Except as otherwise provided in subsection 9, as used in this  
22 section, "explosive" means gunpowders, powders used for blasting,  
23 all forms of high explosives, blasting materials, fuses other than  
24 electric circuit breakers, detonators and other detonating agents,  
25 smokeless powders, other explosive or incendiary devices and any  
26 chemical compound, mechanical mixture or device that contains any  
27 oxidizing or combustible units, or other ingredients, in such  
28 proportions, quantities or packing that ignition by fire, friction,  
29 concussion, percussion or detonation of the compound, mixture,  
30 device or any part thereof may cause an explosion.

31 9. For the purposes of this section, an explosive does not  
32 include:

33 (a) Ammunition for small arms ~~or~~ or any component thereof;

34 (b) Black powder commercially manufactured in quantities that  
35 do not exceed 50 pounds, percussion caps, safety and pyrotechnic  
36 fuses, quills, quick and slow matches, and friction primers that are  
37 intended to be used solely for sporting, recreation or cultural  
38 purposes:

39 (1) In an antique firearm, as that term is defined in 18 U.S.C.  
40 § 921(a)(16), as that section existed on January 1, 1999; or

41 (2) In an antique device which is exempted from the  
42 definition of "destructive device" pursuant to 18 U.S.C. § 921(a)(4),  
43 as that section existed on January 1, 1999; or

44 (c) Any explosive that is manufactured under the regulation of a  
45 military department of the United States, or that is distributed to, or



1 possessed or stored by, the military or naval service or any other  
2 agency of the United States, or an arsenal, a navy yard, a depot or  
3 any other establishment owned by or operated on behalf of the  
4 United States.

5 **Sec. 4.** NRS 278.262 is hereby amended to read as follows:  
6 278.262 ~~[The]~~

7 *1. In a county whose population is 400,000 or more, the*  
8 governing body of ~~[any]~~ *the* county or *of any* city *in such a county*  
9 may appoint as many full-time or part-time hearing examiners as are  
10 necessary or appropriate to assist the ~~[planning commission and the]~~  
11 governing body in acting upon proposals for changes in zoning  
12 classification, zoning districts, special use permits, variances and  
13 other matters affecting zoning.

14 *2. In a county whose population is less than 400,000, the*  
15 *governing body of the county or of any city in such a county may*  
16 *appoint as many full-time or part-time hearing examiners as are*  
17 *necessary or appropriate to assist the planning commission and*  
18 *the governing body in acting upon proposals for changes in*  
19 *zoning classification, zoning districts, special use permits,*  
20 *variances and other matters affecting zoning.*

21 **Sec. 5.** NRS 278.265 is hereby amended to read as follows:

22 278.265 1. Any ordinance enacted pursuant to the provisions  
23 of NRS 278.264 must provide, in substance, the same notice of  
24 hearing and conduct of hearing safeguards required by NRS 278.315  
25 or 278.480, whichever is applicable.

26 2. The governing body shall, by ordinance, set forth the duties  
27 and powers of the hearing examiner, including a statement of  
28 whether the hearing examiner may take final action on any matter  
29 assigned to him by the governing body.

30 3. Except as otherwise provided in subsection 4, the governing  
31 body may authorize the hearing examiner to take final action on  
32 matters relating to a variance, vacation, abandonment, special use  
33 permit, conditional use permit and other special exception or  
34 application specified in the ordinance.

35 4. The governing body shall not authorize the hearing examiner  
36 to take final action on:

37 (a) Matters relating to a zoning classification, zoning district or  
38 an amendment to a zoning boundary.

39 (b) An application for a conditional use permit that is filed  
40 pursuant to NRS 278.147 ~~[.]~~ *or section 1 of this act, as applicable.*

41 5. An applicant or protestant may appeal any final action taken  
42 by the hearing examiner in accordance with the ordinance adopted  
43 pursuant to NRS 278.3195.



1     **Sec. 6.** NRS 278.280 is hereby amended to read as follows:  
2     278.280 1. Any ordinance enacted under NRS 278.270 may  
3 provide that the board:  
4     (a) Be composed of the members of the governing body; or  
5     (b) Be composed of not more than seven appointed members.  
6     2. Any ordinance providing for the appointment of members  
7 must prescribe:  
8     (a) The manner of appointment and compensation of the  
9 members.  
10    (b) The terms of the members, which must be arranged so that  
11 no more than two will expire each year.  
12    3. If the members of the board are appointed, no member may  
13 hold another public office except that :  
14    (a) *In a county whose population is 400,000 or more or a city*  
15 *in such a county, one member may also be a member of the*  
16 *governing body.*  
17    (b) *In a county whose population is less than 400,000 or a city*  
18 *in such a county, one member may also be a member of the*  
19 *planning commission.*  
20    4. Members who are appointed may be removed after a public  
21 hearing for inefficiency, neglect of duty or malfeasance of office.  
22    5. Vacancies must be filled for the unexpired term of any  
23 member appointed whose term becomes vacant.  
24     **Sec. 7.** 1. The terms of the current members of each:  
25     (a) County planning commission of a county whose population  
26 is 400,000 or more; and  
27     (b) City planning commission of a city located in a county  
28 whose population is 400,000 or more,  
29 expire on September 30, 2003.  
30    2. Each person employed by or assigned to work in support of  
31 a planning commission described in subsection 1:  
32     (a) Shall be deemed assigned on October 1, 2003, to perform  
33 similar duties for the governing body of the county or city, as  
34 applicable; and  
35     (b) Must be assigned to perform such similar duties for the  
36 applicable governing body without loss of position, seniority or  
37 benefits.  
38     **Sec. 8.** 1. This section and section 7 of this act become  
39 effective upon passage and approval.  
40    2. Sections 1 to 6, inclusive, of this act become effective on  
41 October 1, 2003.

