

ASSEMBLY BILL NO. 291—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 13, 2003

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to city and county planning commissions in certain larger counties. (BDR 22-728)

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 land use planning; providing that members of city and county planning commissions in certain larger counties serve at the pleasure of their appointing authority; limiting the number of continuances that may be granted by a city or county planning commission in certain larger counties under certain circumstances; revising provisions relating to the appeal of certain land use decisions; revising certain ethical requirements with respect to members of city and county planning commissions in certain larger 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.** NRS 278.040 is hereby amended to read as follows:
2 278.040 1. The members of the planning commission are
3 appointed by the chief executive officer of the city, or in the case of
4 a county by the chairman of the board of county commissioners,
5 with the approval of the governing body. The members must not be
6 members of the governing body of the city or county. The majority
7 of the members of the county planning commission in any county
8 whose population is 400,000 or more must reside within the
9 unincorporated area of the county.



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1 2. In Carson City, the members of the planning commission
2 established as provided in NRS 278.030 are appointed by the mayor
3 from the city at large, with the approval of the Board of Supervisors.

4 3. The governing body may provide for compensation to its
5 planning commission in an amount of not more than \$80 per
6 meeting of the commission, with a total of not more than \$400 per
7 month, and may provide travel expenses and subsistence allowances
8 for the members in the same amounts as are allowed for other
9 officers and employees of the county or city.

10 4. Except as otherwise provided in this subsection, the term of
11 each member is 4 years, or until his successor takes office. If
12 applicable, the term of each member of a county or city planning
13 commission in any county whose population is 400,000 or more is
14 coterminous with the term of the member of the governing body
15 who recommended his appointment to the appointing authority. If
16 the recommending member resigns his office before the expiration
17 of his term, the corresponding member of the planning commission
18 may continue to serve until the office is next filled by election. If the
19 office of the recommending member becomes vacant before the
20 expiration of the term for any other reason, the corresponding
21 member of the planning commission may continue to serve for the
22 duration of the original term.

23 5. ~~Members~~ *Except as otherwise provided in this subsection,*
24 *members of a county or city planning commission* may be
25 removed, after public hearing, by a majority vote of the governing
26 body for just cause. *In a county whose population is 400,000 or*
27 *more, members of a county or city planning commission serve at*
28 *the pleasure of their appointing authority.*

29 6. Vacancies occurring otherwise than through the expiration
30 of term must be filled for the unexpired term.

31 **Sec. 2.** NRS 278.050 is hereby amended to read as follows:
32 278.050 1. The commission shall hold at least one regular
33 meeting in each month.

34 2. It shall adopt rules for transaction of business and shall keep
35 a record of its resolutions, transactions, findings and determinations,
36 which record shall be a public record.

37 3. *In a county whose population is 400,000 or more, the*
38 *commission shall not grant to an applicant more than two*
39 *continuances on the same matter, unless the commission*
40 *determines, upon good cause shown, that the granting of*
41 *additional continuances is warranted.*

42 **Sec. 3.** NRS 278.3195 is hereby amended to read as follows:
43 278.3195 1. Except as otherwise provided in NRS 278.310,
44 each governing body shall adopt an ordinance providing that any
45 person who is aggrieved by a decision of:



- 1 (a) The planning commission, if the governing body has created
- 2 a planning commission pursuant to NRS 278.030;
- 3 (b) The board of adjustment, if the governing body has created a
- 4 board of adjustment pursuant to NRS 278.270;
- 5 (c) A hearing examiner, if the governing body has appointed a
- 6 hearing examiner pursuant to NRS 278.262; or
- 7 (d) Any other person appointed or employed by the governing
- 8 body who is authorized to make administrative decisions regarding
- 9 the use of land,
- 10 may appeal the decision to the governing body. *In a county whose*
- 11 *population is 400,000 or more, a person shall be deemed to be*
- 12 *aggrieved under an ordinance adopted pursuant to this subsection*
- 13 *if the person appeared, either in person, through an authorized*
- 14 *representative, or in writing, before a person or entity described in*
- 15 *paragraphs (a) to (d), inclusive, on the matter which is the subject*
- 16 *of the decision.*
- 17 2. Except as otherwise provided in NRS 278.310, an ordinance
- 18 adopted pursuant to subsection 1 must set forth, without limitation:
- 19 (a) The period within which an appeal must be filed with the
- 20 governing body.
- 21 (b) The procedures pursuant to which the governing body will
- 22 hear the appeal.
- 23 (c) That the governing body may affirm, modify or reverse a
- 24 decision.
- 25 (d) The period within which the governing body must render its
- 26 decision except that:
- 27 (1) In a county whose population is 400,000 or more, that
- 28 period must not exceed 45 days.
- 29 (2) In a county whose population is less than 400,000, that
- 30 period must not exceed 60 days.
- 31 (e) That the decision of the governing body is a final decision
- 32 for the purpose of judicial review.
- 33 (f) That, in reviewing a decision, the governing body will be
- 34 guided by the statement of purpose underlying the regulation of the
- 35 improvement of land expressed in NRS 278.020.
- 36 (g) That the governing body may charge the appellant a fee for
- 37 the filing of an appeal.
- 38 3. *In addition to the requirements set forth in subsection 2, in*
- 39 *a county whose population is 400,000 or more, an ordinance*
- 40 *adopted pursuant to subsection 1 must:*
- 41 (a) *Set forth procedures for the consolidation of appeals; and*
- 42 (b) *Prohibit the governing body from granting to an aggrieved*
- 43 *person more than two continuances on the same matter, unless the*
- 44 *governing body determines, upon good cause shown, that the*
- 45 *granting of additional continuances is warranted.*



- 1 **4.** Any person who:
- 2 (a) Has appealed a decision to the governing body in accordance
- 3 with an ordinance adopted pursuant to subsection 1; and
- 4 (b) Is aggrieved by the decision of the governing body,
- 5 may appeal that decision to the district court of the proper county by
- 6 filing a petition for judicial review within 25 days after the date of
- 7 filing of notice of the decision with the clerk or secretary of the
- 8 governing body, as set forth in NRS 278.0235.

9 **Sec. 4.** NRS 281.501 is hereby amended to read as follows:

10 281.501 1. Except as otherwise provided in subsection 2 ~~for~~
 11 ~~3-], 3 or 4~~, a public officer may vote upon a matter if the benefit or
 12 detriment accruing to him as a result of the decision either
 13 individually or in a representative capacity as a member of a general
 14 business, profession, occupation or group is not greater than that
 15 accruing to any other member of the general business, profession,
 16 occupation or group.

17 2. ~~Has~~ *Except as otherwise provided in subsection 3, in*
 18 addition to the requirements of the code of ethical standards, a
 19 public officer shall not vote upon or advocate the passage or failure
 20 of, but may otherwise participate in the consideration of a matter
 21 with respect to which the independence of judgment of a reasonable
 22 person in his situation would be materially affected by:

- 23 (a) His acceptance of a gift or loan;
- 24 (b) His pecuniary interest; or
- 25 (c) His commitment in a private capacity to the interests of
- 26 others.

27 It must be presumed that the independence of judgment of a
 28 reasonable person would not be materially affected by his pecuniary
 29 interest or his commitment in a private capacity to the interests of
 30 others where the resulting benefit or detriment accruing to him or to
 31 the other persons whose interests to which the member is committed
 32 in a private capacity is not greater than that accruing to any other
 33 member of the general business, profession, occupation or group.
 34 The presumption set forth in this subsection does not affect the
 35 applicability of the requirements set forth in subsection ~~3-] 4~~
 36 relating to the disclosure of the pecuniary interest or commitment in
 37 a private capacity to the interests of others.

38 3. *In a county whose population is 400,000 or more, a*
 39 *member of a county or city planning commission shall not vote*
 40 *upon or advocate the passage or failure of, but may otherwise*
 41 *participate in the consideration of a matter with respect to which*
 42 *the independence of judgment of a reasonable person in his*
 43 *situation would be materially affected by:*

- 44 (a) *His acceptance of a gift or loan;*
- 45 (b) *His direct pecuniary interest; or*



1 (c) *His commitment to a member of his household or a person*
2 *who is related to him by blood, adoption or marriage within the*
3 *third degree of consanguinity or affinity.*
4 *It must be presumed that the independence of judgment of a*
5 *reasonable person would not be materially affected by his direct*
6 *pecuniary interest or his commitment described in paragraph (c)*
7 *where the resulting benefit or detriment accruing to him or to the*
8 *other persons whose interests to which the member is committed is*
9 *not greater than that accruing to any other member of the general*
10 *business, profession, occupation or group. The presumption set*
11 *forth in this subsection does not affect the applicability of the*
12 *requirements set forth in subsection 4 relating to the disclosure of*
13 *the direct pecuniary interest or commitment.*

14 4. A public officer or employee shall not approve, disapprove,
15 vote, abstain from voting or otherwise act upon any matter:

16 (a) Regarding which he has accepted a gift or loan;

17 (b) Which would reasonably be affected by his commitment in a
18 private capacity to the interest of others; or

19 (c) In which he has a pecuniary interest,
20 without disclosing sufficient information concerning the gift, loan,
21 commitment or interest to inform the public of the potential effect of
22 the action or abstention upon the person who provided the gift or
23 loan, upon the person to whom he has a commitment, or upon his
24 interest. Except as otherwise provided in subsection ~~6.~~ 7, such a
25 disclosure must be made at the time the matter is considered. If the
26 officer or employee is a member of a body which makes decisions,
27 he shall make the disclosure in public to the Chairman and other
28 members of the body. If the officer or employee is not a member of
29 such a body and holds an appointive office, he shall make the
30 disclosure to the supervisory head of his organization or, if he holds
31 an elective office, to the general public in the area from which he is
32 elected. This subsection does not require a public officer to disclose
33 any campaign contributions that the public officer reported pursuant
34 to NRS 294A.120 or 294A.125 in a timely manner.

35 ~~4.~~ 5. If a public officer declares to the body or committee in
36 which the vote is to be taken that he will abstain from voting
37 because of the requirements of this section, the necessary quorum to
38 act upon and the number of votes necessary to act upon the matter,
39 as fixed by any statute, ordinance or rule, is reduced as though the
40 member abstaining were not a member of the body or committee.

41 ~~5.~~ 6. If a public officer is voting on a matter which affects
42 public employees, he shall make a full public disclosure of any
43 personal pecuniary interest which he may have in the matter.

44 ~~6.~~ 7. After a member of the Legislature makes a disclosure
45 pursuant to subsection ~~3.~~ 4, he may file with the Director of the



1 Legislative Counsel Bureau a written statement of his disclosure.
2 The written statement must designate the matter to which the
3 disclosure applies. After a Legislator files a written statement
4 pursuant to this subsection, he is not required to disclose orally his
5 interest when the matter is further considered by the Legislature or
6 any committee thereof. A written statement of disclosure is a public
7 record and must be made available for inspection by the public
8 during the regular office hours of the Legislative Counsel Bureau.

9 ~~[7.]~~ 8. The provisions of this section do not, under any
10 circumstances:

11 (a) Prohibit a member of the legislative branch from requesting
12 or introducing a legislative measure; or

13 (b) Require a member of the legislative branch to take any
14 particular action before or while requesting or introducing a
15 legislative measure.

16 ~~[8.]~~ 9. As used in this section, "commitment in a private
17 capacity to the interests of others" means a commitment to a person:

18 (a) Who is a member of his household;

19 (b) Who is related to him by blood, adoption or marriage within
20 the third degree of consanguinity or affinity;

21 (c) Who employs him or a member of his household;

22 (d) With whom he has a substantial and continuing business
23 relationship; or

24 (e) Any other commitment or relationship that is substantially
25 similar to a commitment or relationship described in this subsection.

