

ASSEMBLY BILL NO. 48—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF CLARK COUNTY)

PREFILED NOVEMBER 17, 2016

Referred to Committee on Government Affairs

SUMMARY—Makes various changes relating to local government.
(BDR 21-435)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
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 cities; prohibiting certain municipal utilities from denying or restricting service to certain property; providing that certain municipal ordinances or regulations are null and void; prohibiting cities in certain counties from annexing real property under certain circumstances; authorizing and setting forth the procedures for certain boards of county commissioners to detach real property from a city under certain circumstances; requiring cities in certain counties to notify the board of county commissioners of certain proposed changes to zoning districts and designations; delaying, under certain circumstances, the effective date of changes in zoning districts and designations; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the provision of services by a public or municipal utility to real property located outside of the city but within the service area of the utility may not be conditioned upon the property owner agreeing to the annexation of the property to the city served by the utility. (NRS 266.293, 268.4107) **Sections 1 and 5** of this bill define such a “service area” to include all real property located within the boundaries of the city and located outside the boundaries of the city for which a connection to the utility can be made at a point located within 1,500 feet of any part of the existing system of the utility. **Sections 1 and 5** also: (1) prohibit the denial or restriction of service by the utility to real property because the real property is



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10 located outside the boundaries of the city; and (2) prohibit a city and utility from
11 charging an owner of real property located within the service area of the utility but
12 outside the boundaries of the city a different rate or fee than the rates or fees
13 charged to owners of real property located within the service area of the utility and
14 the boundaries of the city.

15 Existing law provides for the annexation of unincorporated territory by a city
16 located in a county whose population is 700,000 or more (currently Clark County).
17 (NRS 268.570-268.608) **Section 3** of this bill provides that such a city is prohibited
18 from annexing real property if: (1) the provision of services to the property by a
19 public or municipal utility has been unlawfully conditioned upon the property
20 owner agreeing to the annexation or denied or restricted because the property is
21 located outside the boundaries of the city; (2) the annexation violates the terms of
22 any written agreement between the county and city; (3) the annexation includes
23 public land about which the county has a lease with the Bureau of Land
24 Management for a recreational or public purpose; or (4) the city intends to use
25 certain annexation procedures but the property does not meet the requirements for
26 the city to use such procedures. **Section 3** also authorizes the board of county
27 commissioners to detach the property from the city if the annexation occurred in
28 violation of these restrictions. **Section 4** of this bill sets forth the procedures for the
29 board to detach such property.

30 Under existing law, the governing body of a city must provide notice to certain
31 property owners before it decides whether to approve a proposed amendment to the
32 boundary of a zoning district or a zoning designation. **Section 8** of this bill requires
33 a city in a county whose population is 700,000 or more (currently Clark County) to
34 also provide notice to the board of county commissioners if: (1) the proposed
35 amendment involves a change that would increase the density or intensity with
36 which a parcel of land may be used; (2) the parcel of land was annexed by the city
37 less than 2 years before the date of the application for the amendment; and (3) on
38 the date of annexation, the density or intensity with which the parcel could have
39 been used pursuant to the county's zoning district or designation was less than the
40 density or intensity requested in the application. **Section 8** also provides that if the
41 city approves an increase in the density or intensity with which the parcel may be
42 used, the increase may not take effect until 2 years after the date that the parcel was
43 annexed unless the board of county commissioners agrees to an earlier effective
44 date.

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

1 **Section 1.** NRS 266.293 is hereby amended to read as follows:
2 266.293 **1.** If real property is located within the service area
3 of a public utility acquired or established by a city council pursuant
4 to NRS 266.290, the provision of services by the public utility to the
5 property ~~may~~:

6 (a) *May not be denied or restricted because the real property is
7 located outside the boundaries of the city; and*

8 (b) *May not be conditioned upon the property owner agreeing to
9 annexation of the real property to the city.*

10 **2.** *A city and a public utility acquired or established by a city
11 council pursuant to NRS 266.290 shall not charge an owner of
12 real property located within the service area of the utility but*



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1 *outside the boundaries of the city a different rate or fee than the
2 rates or fees charged to owners of real property located within the
3 service area of the utility and the boundaries of the city.*

4 *3. Any ordinance or regulation which is inconsistent with this
5 section or which is designed to restrict or prohibit the provision of
6 services by a public utility to property that is within the service
7 area of the utility is null and void.*

8 *4. As used in this section, "service area of a public utility"
9 includes:*

10 *(a) All real property located within the boundaries of the city;
11 and*

12 *(b) All real property located outside the boundaries of the city
13 for which a connection to the public utility can be made at a point
14 located within 1,500 feet of any part of the existing system of the
15 utility.*

16 Sec. 2. Chapter 268 of NRS is hereby amended by adding
17 thereto the provisions set forth as sections 3 and 4 of this act.

18 Sec. 3. *1. Regardless of whether the owner of real property
19 consents to annexation, the governing body of a city shall not
20 annex real property if:*

21 *(a) The provision of services to the property by a public or
22 municipal utility has, in violation of NRS 266.293 or 268.4107,
23 been:*

24 *(1) Conditioned upon the property owner agreeing to the
25 annexation; or*

26 *(2) Denied or restricted because the property is located
27 outside of the boundaries of the city;*

28 *(b) The annexation violates the terms of any written agreement
29 between the county and the city;*

30 *(c) The annexation includes public land about which the
31 county has a lease with the Bureau of Land Management
32 pursuant to 43 U.S.C. §§ 869 et seq. for a recreational or public
33 purpose; or*

34 *(d) The city intends to use the alternate annexation procedure
35 set forth in NRS 268.597 but the property does not meet the
36 requirements set forth in subsection 1 of NRS 268.597.*

37 *2. If a city annexes real property in violation of subsection 1,
38 the board of county commissioners may detach the property from
39 the city by following the procedures set forth in section 4 of this
40 act.*

41 Sec. 4. *1. If it finds that a city annexed any real property in
42 violation of section 3 of this act, a board of county commissioners
43 shall have power by ordinance or other appropriate legal action
44 taken to detach the property from the city in the following
45 manner:*



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1 (a) The board, on its own motion or upon petition in writing
2 signed by a majority of property owners within the area to be
3 detached, shall cause to be prepared and filed with its clerk an
4 accurate map or plat, made and certified by a competent surveyor,
5 showing the real property proposed or sought to be detached and
6 the boundaries contemplated to be diminished or contracted.

7 (b) The board shall then cause to be published in a newspaper
8 in the city for not less than 1 week a notice of its intention to
9 consider and act upon the matter, briefly describing the proposed
10 change and referring to the map on file, and fixing a time when
11 the board will meet and consider objections or protests against the
12 proposed change.

13 (c) A notice setting forth the time, place and purpose of the
14 hearing must be sent at least 10 days before the hearing to:

15 (1) Each record owner of real property in the area proposed
16 to be detached;

17 (2) Each record owner of real property located within 500
18 feet of the area proposed to be detached; and

19 (3) The governing body of the city.

20 (d) The notice required by paragraph (c) must:

21 (1) Be sent by:

22 (I) Certified mail, return receipt requested; or

23 (II) Electronic means if receipt of the notice can be
24 verified.

25 (2) Be written in language that is easy to understand; and

26 (3) Set forth the time, place and purpose of the hearing and
27 a physical description or map of the area in question.

28 (e) If the board finds at the hearing that there is substantial
29 evidence that the city annexed the real property in violation of
30 section 3 of this act, the board may by ordinance or other
31 appropriate legal action taken declare the property severed and
32 detached from the city, and the boundaries diminished or
33 contracted as proposed. If the board takes such action, the
34 annexation by the city is void ab initio.

35 2. The decision of the board is a final decision for the
36 purpose of judicial review. Any person or entity, including,
37 without limitation, the governing body of the city, who appeared at
38 the hearing to protest the annexation and is aggrieved by the
39 decision of the board may, within 25 days from the date of the
40 hearing, appeal the board's decision to the district court having
41 jurisdiction of the detached area.

42 3. If an appeal is not filed within 25 days from the date of the
43 board's hearing or the board's decision is upheld upon judicial
44 review, the board must file with the county recorder a copy of the
45 map mentioned in paragraph (a), certified by the surveyor and by



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1 *the clerk, with a certified copy of the ordinance or action as*
2 *passed, approved and published. Upon such filing the change in*
3 *boundaries shall be deemed complete and the area detached.*

4 **Sec. 5.** NRS 268.4107 is hereby amended to read as follows:

5 268.4107 **1.** If real property is located within the service area
6 of a municipal utility, the provision of services by the municipal
7 utility to the property ~~may~~:

8 (a) *May not be denied or restricted because of the real property*
9 *being located outside the boundaries of the city; and*

10 (b) *May not be conditioned upon the property owner agreeing to*
11 *annexation of the real property to the city.*

12 2. *A city or a municipal utility shall not charge an owner of*
13 *real property located within the service area of the utility but*
14 *outside the boundaries of the city a different rate or fee than the*
15 *rates or fees charged to owners of real property located within the*
16 *service area of the utility and the boundaries of the city.*

17 3. *Any ordinance or regulation which is inconsistent with this*
18 *section or which is designed to restrict or prohibit the provision of*
19 *services by a municipal utility to property that is within the service*
20 *area of the utility is null and void.*

21 4. *As used in this section, "service area of a municipal*
22 *utility" includes:*

23 (a) *All real property located within the boundaries of the city;*
24 *and*

25 (b) *All real property located outside the boundaries of the city*
26 *for which a connection to the municipal utility can be made at a*
27 *point located within 1,500 feet of any part of the existing system of*
28 *the utility.*

29 **Sec. 6.** NRS 268.570 is hereby amended to read as follows:

30 268.570 The provisions of NRS 268.570 to 268.608, inclusive,
31 **and sections 3 and 4 of this act** apply only to cities located in a
32 county whose population is 700,000 or more.

33 **Sec. 7.** NRS 268.574 is hereby amended to read as follows:

34 268.574 As used in NRS 268.570 to 268.608, inclusive ~~1~~,
35 **and sections 3 and 4 of this act:**

36 1. "Contiguous" means either abutting directly on the boundary
37 of the annexing municipality or separated from the boundary thereof
38 by a street, alley, public right-of-way, creek, river or the right-of-
39 way of a railroad or other public service corporation, or by lands
40 owned by the annexing municipality, by some other political
41 subdivision of the State or by the State of Nevada.

42 2. "Lot or parcel" means any tract of land of sufficient size to
43 constitute a legal building lot as determined by the zoning ordinance
44 of the county in which the territory proposed to be annexed is
45 situated. If such county has not enacted a zoning ordinance, the



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1 question of what constitutes a building lot shall be determined by
2 reference to the zoning ordinance of the annexing municipality.

3 3. "Majority of the property owners" in a territory means the
4 record owners of real property:

5 (a) Whose combined value is greater than 50 percent of the total
6 value of real property in the territory, as determined by assessment
7 for taxation; and

8 (b) Whose combined area is greater than 50 percent of the total
9 area of the territory, excluding lands held by public bodies.

10 4. A lot or parcel of land is "used for residential purposes" if it
11 is 5 acres or less in area and contains a habitable dwelling unit of a
12 permanent nature.

13 **Sec. 8.** Chapter 278 of NRS is hereby amended by adding
14 thereto a new section to read as follows:

15 ***1. In addition to the applicable requirements set forth in NRS
16 278.260, if:***

17 (a) *A proposed amendment involves a change in the boundary
18 of a zoning district or a zoning designation that would increase the
19 density or intensity with which a parcel of land may be used;*

20 (b) *The parcel of land was annexed by a city located in a
21 county whose population is 700,000 or more less than 2 years
22 before the date of the application for the proposed amendment;
23 and*

24 (c) *On the date that the parcel of land was annexed by the city,
25 the density or intensity with which the parcel could have been used
26 pursuant to the county's zoning district or zoning designation was
27 less than the density or intensity requested in the application,
28 the governing body of the city must cause a notice of the
29 hearing required pursuant to NRS 278.260 to be sent at least 10
30 days before the hearing to the board of county commissioners.*

31 2. *The notice required pursuant to subsection 1 must:*

32 (a) *Set forth the time, place and purpose of the hearing and a
33 physical description of or a map detailing the proposed change.*

34 (b) *Indicate the existing zoning designation and the proposed
35 zoning designation of the property in question.*

36 (c) *Contain a brief summary of the intent of the proposed
37 change.*

38 3. *Not later than 10 days after making its decision on the
39 application, the governing body of the city must transmit a copy of
40 the decision to the board of county commissioners.*

41 4. *If the governing body of the city approves an increase in
42 the density or intensity with which the parcel of land may be used,
43 such increase may not take effect until 2 years after the date that
44 the parcel of land was annexed by the city unless the board of
45 county commissioners agrees to an earlier effective date.*



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1 **Sec. 9.** NRS 278.010 is hereby amended to read as follows:
2 278.010 As used in NRS 278.010 to 278.630, inclusive, ***and***
3 ***section 8 of this act,*** unless the context otherwise requires, the
4 words and terms defined in NRS 278.0103 to 278.0195, inclusive,
5 have the meanings ascribed to them in those sections.

6 **Sec. 10.** This act becomes effective upon passage and
7 approval.

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