

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.

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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**  
**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. ~~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.***



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

5 **Sec. 3.** (Deleted by amendment.)

6 **Sec. 4.** (Deleted by amendment.)

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

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

14 (a) *May, without limitation:*

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

17 (2) *Provide requirements for liability insurance; and*

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

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

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

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

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

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

31 244.337 1. The board of county commissioners of any county  
32 may provide by ordinance for the licensing and regulating of  
33 farmers' markets located outside of an incorporated city **+**,  
34 *including, without limitation, regulating the sale of unpackaged*  
35 *produce at a licensed farmers' market. Any such ordinance must*  
36 *not prohibit the sale of unpackaged produce at a licensed farmers'*  
37 *market.*

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

43 3. The board of county commissioners may:

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



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

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

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

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

11 (a) *May, without limitation:*

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

14 (2) *Provide requirements for liability insurance; and*

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

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

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

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

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

26 **Sec. 6.** (Deleted by amendment.)

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

28 268.092 1. The city council or other governing body of any  
29 incorporated city in the State of Nevada, whether organized under  
30 general law or special charter, may provide by ordinance for the  
31 licensing and regulating of farmers' markets ~~[-]~~, *including, without*  
32 *limitation, regulating the sale of unpackaged produce at a licensed*  
33 *farmers' market. Any such ordinance must not prohibit the sale of*  
34 *unpackaged produce at a licensed farmers' market.*

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

40 3. The city council or other governing body may:

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

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

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



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

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

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

9     3. *An ordinance adopted pursuant to this section:*

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

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

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

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

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

20     278.010 As used in NRS 278.010 to 278.630, inclusive, *and*  
21     *section 7.1 of this act*, unless the context otherwise requires, the  
22     words and terms defined in NRS 278.0103 to 278.0195, inclusive,  
23     have the meanings ascribed to them in those sections.

24     **Sec. 7.4.** NRS 278.024 is hereby amended to read as follows:

25     278.024 1. In the region of this State for which there has  
26     been created by NRS 278.780 to 278.828, inclusive, a regional  
27     planning agency, the powers conferred by NRS 278.010 to 278.630,  
28     inclusive, *and section 7.1 of this act* upon any other authority are  
29     subordinate to the powers of such regional planning agency, and  
30     may be exercised only to the extent that their exercise does not  
31     conflict with any ordinance or plan adopted by such regional  
32     planning agency. The powers conferred by NRS 278.010 to  
33     278.630, inclusive, *and section 7.1 of this act* shall be exercised  
34     whenever appropriate in furtherance of a plan adopted by the  
35     regional planning agency.

36     2. Upon the adoption by a regional planning agency created by  
37     NRS 278.780 to 278.828, inclusive, of any regional plan, any plan  
38     adopted pursuant to NRS 278.010 to 278.630, inclusive, *and section*  
39     *7.1 of this act* shall cease to be effective as to the territory embraced  
40     in such regional plan. Each planning commission and governing  
41     body whose previously adopted plan is so affected shall, within 90  
42     days after the effective date of the regional plan, initiate any  
43     necessary procedure to revise its plan and any related zoning  
44     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:



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

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

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

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

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

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

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

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

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

30 (6) An analysis of the characteristics of the land that is  
31 suitable for residential development. The analysis must include,  
32 without limitation:

33 (I) A determination of whether the existing infrastructure  
34 is sufficient to sustain the current needs and projected growth of the  
35 community; and

36 (II) An inventory of available parcels that are suitable for  
37 residential development and any zoning, environmental and other  
38 land-use planning restrictions that affect such parcels.

39 (7) An analysis of the needs and appropriate methods for the  
40 construction of affordable housing or the conversion or  
41 rehabilitation of existing housing to affordable housing.

42 (8) A plan for maintaining and developing affordable  
43 housing to meet the housing needs of the community for a period of  
44 at least 5 years.

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



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

4 (2) A land use plan, including an inventory and classification  
5 of types of natural land and of existing land cover and uses, and  
6 comprehensive plans for the most desirable utilization of land. The  
7 land use plan:

8 (I) Must, if applicable, address mixed-use development,  
9 transit-oriented development, master-planned communities and  
10 gaming enterprise districts. The land use plan must also, if  
11 applicable, address the coordination and compatibility of land uses  
12 with any military installation in the city, county or region, taking  
13 into account the location, purpose and stated mission of the military  
14 installation.

15 (II) May include a provision concerning the acquisition  
16 and use of land that is under federal management within the city,  
17 county or region, including, without limitation, a plan or statement  
18 of policy prepared pursuant to NRS 321.7355.

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

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

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

27 (2) A population plan setting forth an estimate of the total  
28 population which the natural resources of the city, county or region  
29 will support on a continuing basis without unreasonable impairment.

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

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

37 (5) Provisions concerning public services and facilities  
38 showing general plans for sewage, drainage and utilities, and rights-  
39 of-way, easements and facilities therefor, including, without  
40 limitation, any utility projects required to be reported pursuant to  
41 NRS 278.145. If a public utility which provides electric service  
42 notifies the planning commission that a new transmission line or  
43 substation will be required to support the master plan, those  
44 facilities must be included in the master plan. The utility is not  
45 required to obtain an easement for any such transmission line as a





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

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

6 (f) A recreation and open space element, which must include a  
7 recreation plan showing a comprehensive system of recreation areas,  
8 including, without limitation, natural reservations, parks, parkways,  
9 trails, reserved riverbank strips, beaches, playgrounds and other  
10 recreation areas, including, when practicable, the locations and  
11 proposed development thereof.

12 (g) A safety element, which must include:

13 (1) In any county whose population is 700,000 or more, a  
14 safety plan identifying potential types of natural and man-made  
15 hazards, including, without limitation, hazards from floods,  
16 landslides or fires, or resulting from the manufacture, storage,  
17 transfer or use of bulk quantities of hazardous materials. The safety  
18 plan may set forth policies for avoiding or minimizing the risks from  
19 those hazards.

20 (2) A seismic safety plan consisting of an identification and  
21 appraisal of seismic hazards such as susceptibility to surface  
22 ruptures from faulting, to ground shaking or to ground failures.

23 (h) A transportation element, which must include:

24 (1) A streets and highways plan showing the general  
25 locations and widths of a comprehensive system of major traffic  
26 thoroughfares and other traffic ways and of streets and the  
27 recommended treatment thereof, building line setbacks, and a  
28 system of naming or numbering streets and numbering houses, with  
29 recommendations concerning proposed changes.

30 (2) A transit plan showing a proposed multimodal system of  
31 transit lines, including mass transit, streetcar, motorcoach and  
32 trolley coach lines, paths for bicycles and pedestrians, satellite  
33 parking and related facilities.

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

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

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



1 2. The commission may prepare and adopt, as part of the  
2 master plan, other and additional plans and reports dealing with such  
3 other elements as may in its judgment relate to the physical  
4 development of the city, county or region, and nothing contained in  
5 NRS 278.010 to 278.630, inclusive, *and section 7.1 of this act*  
6 prohibits the preparation and adoption of any such element as a part  
7 of the master plan.

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

9 371.047 1. A county may use the proceeds of the tax imposed  
10 pursuant to NRS 371.043 or 371.045, or of bonds, notes or other  
11 obligations incurred to which the proceeds of those taxes are  
12 pledged to finance a project related to the construction of a highway  
13 with limited access, to:

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

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

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

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

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

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

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

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

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

44 (b) Lowers the value of the property; or

45 (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.



