

THE ROLES OF THE STATE HEALTH DIVI-
SION AND LOCAL GOVERNMENT IN
APPROVING CONSTRUCTION PROJECTS



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LEGISLATIVE COMMISSION
OF THE
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STATE OF NEVADA

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LEGISLATIVE COMMISSION

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Senate Concurrent Resolution No. 48—Committee on Government Affairs

FILE NUMBER 178

SENATE CONCURRENT RESOLUTION—Directing the legislative commission to study and make recommendations relating to the impact of regulations by the health division of the department of human resources on the power of a local government to approve construction projects.

Resolved by the Senate of the State of Nevada, the Assembly concurring, That the legislative commission is directed to study:

1. The statutory requirements of chapters 116, 117, 278, 444 and 445 of NRS as they confer regulatory authority upon the health division of the department of human resources;
2. The effect of the health division's regulations on local government's authority to approve or disapprove construction projects; and
3. The feasibility of placing with local governments the exclusive control over the approval or disapproval of any construction project; and be it further

Resolved, That the legislative commission report the results of the study and make appropriate recommendations to the 59th session of the legislature.

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REPORT OF THE LEGISLATIVE COMMISSION

To the Members of the 59th Session of the Nevada Legislature:

This report is submitted in compliance with Senate Concurrent Resolution No. 48 of the 58th session of the Nevada legislature, which directed the legislative commission to study the impact of regulations by the health division of the department of human resources on the power of a local government to approve construction projects.

The legislative commission appointed a subcommittee to conduct the study composed of Senator Eugene V. Echols as chairman, Senator Helen Herr as vice chairman and the following assemblymen as members: Eileen B. Brookman, Virgil M. Getto, John E. Jeffrey and John M. Vergiels. Because of the highly technical nature of the subject matter, the subcommittee in turn appointed two technical advisory committees whose memberships were drawn respectively from the northern and southern part of the state and from the public and private sectors of the fields of public works, health, engineering, planning, real estate and construction. Both advisory committees closely examined the entire process by which the state health division and local governments approve construction projects and their joint report was adopted by the subcommittee almost without modification as the basis for its own report. The legislative commission joins with the subcommittee in extending its appreciation to the members of the advisory committees and to their coordinators, Ms. Irene Porter, director of planning for the City of North Las Vegas, and Messrs. Robert Erickson and Fred Welden of the Nevada state land use planning agency.

In its report, the subcommittee has attempted to present its findings and recommendations briefly and concisely. Only that data which bear directly upon the recommendations are included. All supporting documents including the joint report of the technical advisory committees are on file with the legislative counsel bureau and are readily available to any legislator.

This report is transmitted to the members of the 1977 legislature for their consideration and appropriate action.

Respectfully submitted,

Legislative Commission
Legislative Counsel Bureau
State of Nevada

Carson City, Nevada

REPORT OF THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE
ON ROLES OF THE STATE HEALTH DIVISION AND
LOCAL GOVERNMENTS IN APPROVING
CONSTRUCTION PROJECTS

I. INTRODUCTION

The review and approval authority of the state health division extends over various types of construction projects. They include mausoleums, crypts and similar structures, health care and child care facilities, water and sewage treatment plants and similar projects which are constructed for general improvement districts, those facilities which the legislature has designated as complex sources of air pollution (see NRS 445.446) and subdivisions. The subcommittee found from its initial inquiries that the health division regulations pertaining to these types of projects are numerous and highly technical. The interrelationship of state and local enforcement procedures in the approval process, especially in the review and approval of subdivisions, is complex and in some cases varies in practice from one part or the state to another. Besides the technical aspects of the study, the subcommittee also knew that for some time prior to the enactment of S.C.R. No. 48, groups of local public officials and private citizens had taken an active and deep interest in the problem areas and policy issues which the study was to address. For these reasons the subcommittee asked these groups to form two technical advisory committees.

The committee memberships were large and included state and local public officials and private citizens from both the northern and southern part of the state who were engaged in public works, health, engineering, planning, real estate and construction. (A list of the members of the northern Nevada technical advisory committee and the southern Nevada technical advisory committee appears as Exhibit 1.) The committees were asked to examine each type of construction project which required approval by the state health division in light of the directive of S.C.R. No. 48 to study:

1. The statutory requirements of chapters 116, 117, 278, 444 and 445 of NRS as they confer regulatory authority upon the health division of the department of human resources;

2. The effect of the health division's regulations on local government's authority to approve or disapprove construction projects; and

3. The feasibility of placing with local governments the exclusive control over the approval or disapproval of any construction project * * *.

After 7 months of careful investigation and analysis and effective coordination carried out by Ms. Irene Porter, director of planning of the City of North Las Vegas, and Mr. Fred Welden of the Nevada state land use planning agency, the two advisory committees issued a joint report with recommendations which this subcommittee has adopted as its own with only minor modifications. The subcommittee is indebted to its technical advisory committees.

II. THE FINDINGS AND RECOMMENDATIONS

A. Mausoleums, crypts and similar structures.

The southern Nevada technical advisory committee reported that in Clark County the district board of health, on behalf of the state health division, and local governments both inspect the construction of mausoleums, vaults, crypts and similar structures. The subcommittee finds that inspections conducted exclusively by the city or county public works or building department would be sufficient where the city or county had adopted a nationally recognized building code. County enforcement of state and local regulations governing the construction of these structures should occur only within the unincorporated areas of the county. It appears that the cities prefer that where an incorporated city does not have a building or public works department and a nationally recognized building code, the state health division should carry out the inspection.

The subcommittee recommends that

CITIES AND COUNTIES WHICH HAVE A BUILDING OR PUBLIC WORKS DEPARTMENT AND HAVE ADOPTED A NATIONALLY RECOGNIZED BUILDING CODE BE REQUIRED TO ENFORCE IN PLACE OF THE HEALTH DIVISION OR A DISTRICT BOARD OF HEALTH STATE REGULATIONS AND LOCAL ORDINANCES PERTAINING TO THE CONSTRUCTION OF MAUSOLEUMS, CRYPTS AND SIMILAR STRUCTURES WITHIN THEIR RESPECTIVE JURISDICTIONS.

BDR 40-85, attached as Appendix A, would carry out this recommendation.

B. Complex sources of air pollution.

The district boards of health in Clark and Washoe counties and the state health division in the other areas of the state review complex or indirect sources of air pollution under Nevada's air pollution control law, NRS 445.401 to 445.601, inclusive. That law was enacted in 1971 in response to the federal Clean Air Act (42 U.S.C. §§ 1857 et seq.) under which the United States Environmental Protection Agency (EPA) developed regulations pertaining to complex sources. The Nevada law at first allowed local standards to be equivalent to or stricter than those established by statute or state regulation. (See chapter 567, Statutes of Nevada 1971, page 1191.) The Clark County district health board adopted stricter standards. Later, when the Environmental Protection Agency indefinitely delayed enforcement of the federal standards, local dissatisfaction with the district's standards grew and was followed in 1975 by the enactment of Assembly Bill No. 480 which provided that local emission control standards could be equivalent to, but not stricter than, those established by the state; that no regulation, state or local, pertaining to size cutoffs for indirect sources could be more stringent than those established in the federal law; and that if the Environmental Protection Agency delays the effective date for enforcement of its indirect source regulations beyond January 17, 1977, the state's authority to review complex sources is to expire. (See chapter 752, Statutes of Nevada 1975, page 1781 et seq.)

The subcommittee finds that the decline in confidence in the federal indirect source standards and the increase in concern over economic conditions in the state justifies removal of the state's review authority over complex sources as provided in the law. But the law should provide for the possibility that the Environmental Protection Agency may fix the effective date for enforcing its indirect source regulations after January 17, 1977. If that should happen, the subcommittee recommends that

THE STATE ENFORCE ONLY THE FEDERAL REGULATIONS AND ONLY TO THE EXTENT REQUIRED BY THE FEDERAL LAW;
THAT TO THE EXTENT LOCAL ENFORCEMENT IS NOT INCONSISTENT WITH THE FEDERAL LAW, THE GOVERNING BODIES OF THE CITIES AND COUNTIES BE REQUIRED TO ENFORCE

FEDERAL INDIRECT SOURCE REGULATIONS AND LOCAL REGULATIONS THAT ARE AT LEAST AS STRICT AS THE FEDERAL REGULATIONS.

BDR 40-86, attached as Appendix B, would carry out this recommendation.

C. Subdivisions.

The roles of the state health division and local governments in approving subdivisions are treated in widely dispersed sections of Nevada Revised Statutes. The technical advisory committees reported that this factor, coupled with instances of statutory duplication and inconsistency, presents difficulties for developers and planners alike. As soon as the advisory committees completed their report to this subcommittee, they began work for the legislative commission on an integrated land division law. The subcommittee urges the adoption of a land division law which is contained in a single chapter of Nevada Revised Statutes.

The advisory committees found that the district health departments of Clark and Washoe counties and several local governments have the staff resources necessary to conduct subdivision reviews in the place of the state health division. While local review by qualified health authorities is permitted under the health division's current subdivision regulations, only the division by law may sign the subdivision's final map. The subcommittee believes that both economy and safety can be served by review by qualified local personnel. Accordingly, the subcommittee recommends that

THE SUBDIVISION REVIEW AND APPROVAL AUTHORITY OF THE STATE HEALTH DIVISION BE EXERCISED BY A DISTRICT BOARD OF HEALTH, CITY OR COUNTY UPON ITS REQUEST IF THE HEALTH DIVISION DETERMINES THAT THESE AGENCIES ARE ADEQUATELY STAFFED TO CONDUCT SUBDIVISION REVIEWS.

The state health division should still monitor and supervise the local review. A requirement for the local reviewing agencies to certify to the health division that an approved subdivision does satisfy the division's regulations is one tool to aid its supervision. Finally, if a qualified district board of health, city or county wishes to review subdivision projects in the place of the state health division, the state should not be chargeable with any expense the local agency incurs in doing so.

Subdivision review and approval by the state health division (for sewage disposal, water pollution, water quality and water supply facilities) and the state division of water resources (for water quantity) is required only at the final map stage. The current practice in the health division to review projects informally at the tentative map stage indicates that it is feasible to alert the developer to potential shortcomings in his project before he begins to make costly outlays on it. The subcommittee believes that tentative approval by both state agencies should be required at this stage. But approval at the tentative map stage should not replace approval at the final map stage. Final approval insures review of detailed engineering drawings. Therefore, the subcommittee recommends that

THE TENTATIVE MAP OF A PROPOSED SUBDIVISION BE
APPROVED, CONDITIONALLY APPROVED OR DISAPPROVED
BY THE STATE HEALTH DIVISION AND THE STATE DIVI-
SION OF WATER RESOURCES.

(Qualified local agencies would exercise the state health division's authority to review tentative maps as discussed in the next previous recommendation.) The subcommittee would urge in this regard that any forthcoming major revision of the subdivision law set time limits within which state review of a proposed subdivision must be completed.

The technical advisory committees found that the water supply facilities of a proposed subdivision are given essentially the same review by both the state health division and the public service commission of Nevada. (See subsection 7 of NRS 278.420 and NRS 704.679.) The subcommittee recognizes that the commission, which regulates large water systems after they are installed, needs assurance that the systems are adequately designed to meet operating requirements. Specifically the public service commission needs to know that its requirements regarding flowing pressures at a utility's distribution main and installation and service connections to the utility's distribution system have been met. The subcommittee is satisfied that the commission's need for assurance can be met with a certificate from the health division indicating that the subdivision complies with the commission's regulations and thus commission review of the proposed subdivision can be eliminated. Accordingly, the subcommittee recommends that

THE REQUIREMENT FOR PUBLIC SERVICE COMMISSION REVIEW AND APPROVAL OF THE WATER SUPPLY FACILITIES OF A PROPOSED SUBDIVISION BE ELIMINATED AND THAT THE STATE HEALTH DIVISION BE REQUIRED TO CERTIFY TO THE COMMISSION AFTER APPROVING THE FINAL MAP THAT THE SUBDIVISION SATISFIES COMMISSION REGULATIONS PERTAINING TO FLOWING PRESSURES AT A UTILITY'S DISTRIBUTION MAIN AND INSTALLATION AND SERVICE CONNECTIONS TO THE UTILITY'S DISTRIBUTION SYSTEM.

In their report the technical advisory committees pointed out that a subdivision developer is normally required to distribute the tentative map and associated information to a host of state and local reviewing agencies. Local governments in Clark County have found it more efficient to have the local agency which first receives the tentative map distribute copies of the map to all the other reviewing authorities. The subcommittee believes this procedure should obtain throughout the state and therefore recommends that

THE PLANNING COMMISSION, THE CLERK OF THE GOVERNING BODY OF A CITY OR COUNTY OR, WHEN PERMITTED BY THE GOVERNING BODY, THE SUBDIVIDER OR ANY OTHER APPROPRIATE AGENCY BE REQUIRED TO DISTRIBUTE COPIES OF THE TENTATIVE MAP AND ANY ACCOMPANYING DATA TO ALL STATE AND LOCAL AGENCIES CHARGED WITH REVIEWING A PROPOSED SUBDIVISION.

At present, state law authorizes the planning commissions to approve or disapprove the tentative map of a proposed subdivision. (See, for example, subsection 4 of NRS 278.330.) The subcommittee believes that authority should be exercised by elected officials acting upon a recommendation only of the planning commission. Therefore, the subcommittee recommends that

THE PLANNING COMMISSION REPORT UPON A TENTATIVE MAP SHOULD CONTAIN RECOMMENDATIONS TO THE GOVERNING BODY FOR APPROVAL, CONDITIONAL APPROVAL OR DISAPPROVAL.

Under paragraph (b) of subsection 1 of NRS 278.320 physical divisions of land created by court order are exempt from the subdivision laws. The technical advisory committees reported instances where courts in divorce actions and other proceedings divided land into lots which were too small or otherwise

unsuitable to build upon without obtaining a variance from the local zoning laws. The subcommittee recommends that

IN ANY PROCEEDING INVOLVING THE DISPOSITION OF LAND, THE COURTS BE REQUIRED TO CONSIDER LOT SIZE AND OTHER APPLICABLE ZONING REQUIREMENTS BEFORE ORDERING A PHYSICAL DIVISION OF THE LAND.

BDR 22-84, attached as Appendix C, would carry out all the foregoing recommendations relating to subdivisions.

D. Executive agency regulations.

The subcommittee found that numerous regulations which set policy and have the force of law have been promulgated in many state and local government agencies by appointed rather than elected officials. The subcommittee believes that government regulation should be made more sensitive to the needs of the electorate and therefore recommends that

EXECUTIVE AGENCY REGULATIONS ADOPTED BY APPOINTED OFFICIALS BE APPROVED BY ELECTED OFFICIALS AND THAT PROCEDURES ALLOWING FULL OPPORTUNITY FOR PUBLIC PARTICIPATION IN THEIR ADOPTION BE STRENGTHENED.

MEMBERS OF THE TECHNICAL ADVISORY COMMITTEES

SOUTHERN NEVADA TECHNICAL ADVISORY COMMITTEE

Irene Porter (Coordinator), Director of Planning, North Las Vegas
Robert Eads, Boulder City Engineer
Robert Gordon, Henderson Planning Director
Larry Hampton, Las Vegas Director of Public Works
Jack Kenney, Southern Nevada Home Builders
Robert McNutt, Las Vegas Engineer
John Pisciotta, Clark County Director of Building and Safety
James Scholl, Clark County Engineering Department
Dr. V. H. Ueckert, Clark County Health Department

Alternates:

Greg Borgel, Clark County Planning Department
Karsten Bronken, Las Vegas City Engineer
Willem F. A. Stolk, Clark County Health Department
Robert Weld, Southern Nevada Home Builders Executive Director

NORTHERN NEVADA TECHNICAL ADVISORY COMMITTEE

Fred Welden and Robert Erickson (Coordinators), Nevada State Land Use Planning Agency
Jim Barnes, Deputy Attorney General, State Real Estate Division
Don Bayer, Regional Planning Commission of Reno, Sparks, and Washoe County
Charles Breese, Washoe County District Health Department
Ron Byrd, SE&A Consulting Engineers
George Charchalis, Reno Community Development Director
Robert Churn, City of Sparks Division Engineer
Lew Dodgion, State Health Division
Alex Fittinghoff, Sparks Community Development Coordinator
Robert Gardner, Douglas County Public Works Director
John Hancock, Carson City Planning Director
Corky Lingenfelter, Nevada Association of Realtors
Mark Meiser, Meiser Enterprises, Inc., Sparks
Bill Newman, State Division of Water Resources
Jim Newman, Nevada Home Builders Association
H. LaVerne Rosse, State Environmental Protection Services
B. P. Selinder, Churchill County Resource Coordinator
Glen M. Thompson, Reno Assistant City Engineer
James Viano, President, Home Builders Association
Floyd Vice, Washoe County Engineer
Richard Wagner, Pershing County District Attorney
Ron Young, Humboldt County Planning Director

Exhibit 1

PROPOSED LEGISLATION

SUMMARY--Requires certain local government agencies to enforce specified building standards. (BDR 40-85)

Fiscal Note: Local Government Impact: Yes.

State or Industrial Insurance Impact: Yes.

AN ACT relating to cemeteries; requiring certain local government agencies to enforce regulations pertaining to the construction of specified structures; and providing other matters properly relating thereto.

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

Section 1. NRS 452.210 is hereby amended to read as follows:

452.210 1. [No person, firm or corporation shall] A person shall not build, construct or erect any mausoleum, vault, crypt or structure intended to hold or contain dead human bodies, which shall be wholly or partially above the surface of the ground, except in compliance with the [rules and] regulations of the state board of health governing their location, materials and construction. The state board of health may adopt and, except as provided in subsection 2, the health division shall enforce such regulations.

2. [The state board of health is authorized and empowered to adopt and the health division is authorized to enforce such rules and regulations governing the location, materials and construction of mausoleums, vaults, crypts or other similar structures; but the proper local officials of any incorporated city shall have the

authority to make and enforce such additional ordinances, bylaws, rules or regulations as they may deem necessary not inconsistent with NRS 452.210 to 452.250, inclusive, or with any rule or regulation adopted or prescribed by the state board of health.] An incorporated city or a county which:

(a) Has a building or public works department; and

(b) Has adopted a nationally recognized building code, entirely or with variations,

shall enforce within its respective city limits or unincorporated areas any regulations pertaining to the construction of mausoleums, vaults, crypts or other similar structures, as adopted by the state board of health under subsection 1, and shall exercise such enforcement, including supervisory control, instead of the health division and any district board of health.

3. The city or county may, by ordinance, make and enforce additional regulations pertaining to mausoleums, vaults, crypts or other similar structures as it may deem necessary not inconsistent with NRS 452.210 to 452.250, inclusive, or with any regulation adopted by the state board of health.

[3.] 4. Before commencing the building, construction or erection of [the same,] a mausoleum, vault, crypt or other similar structure, full detailed plans and specifications of [such] the

structure shall be presented to the health division for its examination and approval. The approval of the plans and specifications of [such] the structure shall be evidenced by a certificate in writing signed by the state health officer.

Sec. 2. NRS 452.230 is hereby amended to read as follows:

452.230 1. [The] Except as provided in subsection 2 of NRS 452.210, the health division shall have supervisory control over the construction of any [such] mausoleum, vault or crypt, and shall:

(a) See that the approved plans and specifications are in all respects complied with.

(b) Appoint an inspector under whose supervision [such] the mausoleum, vault or crypt shall be erected . [if county and city inspections are not made which require compliance with the Uniform Building Code of 1967.]

(c) Determine the amount of compensation of the inspector. The compensation shall be paid by the person [, firm or corporation] erecting such mausoleum, vault or crypt.

2. No departure or deviation from the original plans and specifications [shall be] is permitted except upon approval of the health division, evidenced in [like manner and form] the same manner as the approval of the original plans and specifications.

3. [No] A mausoleum, vault, crypt or structure [so erected] shall not be used [for the purpose of interring or depositing

therein] to hold any dead body until [there shall have been obtained from the health division a final certificate, signed by the state health officer, stating that the plans and specifications, as filed, have been complied with.] a final certificate is obtained indicating compliance with the plans and specifications as filed. The certificate must be signed either by the state health officer for the health division or by the head of the local building or public works department, depending upon which division or department supervised the construction under NRS 452.210.

SUMMARY--Modifies requirements for the regulation of certain sources of air pollution. (BDR 40-86)

Fiscal Note: Local Government Impact: Yes.

State or Industrial Insurance Impact: Yes.

AN ACT relating to air pollution control; modifying requirements for the regulation of certain sources of air pollution; and providing other matters properly relating thereto.

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

Section 1. NRS 445.493 is hereby amended to read as follows:

445.493 1. No regulation adopted pursuant to any provision of NRS 445.401 to 445.601, inclusive, may be enforced as to indirect sources [which] if it is more stringent with respect to the size cutoffs [as] established for designated areas pursuant to the United States Clean Air Act of 1963 and the rules and regulations adopted in furtherance thereof.

2. [Should] Except as provided in subsection 3, if the United States Environmental Protection Agency [delay] delays the effective date for enforcement of its indirect source regulations beyond January 17, 1977, the [state's] authority of a state agency or district board of health to review new complex sources shall expire. Those projects approved prior to that date shall continue under the guidelines established in their permit.

3. If the federal indirect source regulations become effective after January 17, 1977, then:

(a) The authority of a state agency to review new complex sources may be exercised only:

(1) In the enforcement of the federal indirect source regulations; and

(2) To the extent enforcement by the state agency is required by the federal act.

(b) Except as provided in subsection 1, the governing body of each county and each incorporated city shall enforce within its jurisdiction the federal indirect source regulations or any indirect source regulations it adopts which are at least as strict as the federal indirect source regulations, to the extent such local enforcement is not inconsistent with the requirements of the federal act.

Sec. 2. NRS 445.546 is hereby amended to read as follows:

445.546 1. Except as provided in subsections 2 and 3 of NRS 445.493:

(a) The district board of health, county board of health or board of county commissioners in each county which has a population of 100,000 or more, as determined by the last preceding national census of the Bureau of the Census of the United States Department of Commerce, shall establish an air pollution control

program within 2 years after July 1, 1971, and administer such program within its jurisdiction unless superseded.

[2.] (b) The program shall:

[(a)] (1) Establish by ordinance or local regulation standards of emission control, emergency procedures and variance procedures [which:

(1) In the case of complex sources, are equivalent to, but not stricter than; and

(2) In the case of all other sources, are] equivalent to or stricter than [,] those established by statute or state regulation; and

[(b)] (2) Provide for adequate administration, enforcement, financing and staff.

[3.] (c) The district board of health, county board of health or board of county commissioners is designated as the air pollution control agency of the county for the purposes of NRS 445.401 to 445.601, inclusive, and the federal act insofar as it pertains to local programs, and such agency is authorized to take all action necessary to secure for the county the benefits of the federal act.

[4.] (d) Powers and responsibilities provided for in NRS 445.461, 445.476 to 445.526, inclusive, 445.571 to 445.581, inclusive, and 445.601 shall be binding upon and shall inure to

the benefit of local air pollution control authorities within their jurisdiction.

[5.] 2. The local air pollution control board shall carry out all provisions of NRS 445.466 with the exception that notices of public hearings shall be given in any newspaper, qualified pursuant to the provisions of chapter 238 of NRS, as amended from time to time, once a week for 3 weeks, which notice shall specify with particularity the reasons for the proposed rules or regulations and provide other informative details. [Such rules or regulations may be more restrictive, except as provided in subsection 2, than those adopted by the commission.] NRS 445.466 shall not apply to the adoption of existing regulations upon transfer of authority as provided in NRS 445.598.

[6.] 3. Any county whose population is less than 100,000 or any city may meet the requirements of this section for administration and enforcement through cooperative or interlocal agreement with one or more other counties, or through agreement with the state, or may establish its own air pollution control program. If such county establishes such program, it shall be subject to the approval of the commission.

[7.] 4. No existing compliance schedule, variance order or other enforcement action relating to air pollution by fossil fuel-fired steam generating facilities, with a capacity greater than 1,000 megawatts, may be enforced until July 1, 1977.

[8. The state environmental commission shall hold 1 or more public hearings prior to July 1, 1976, for the purpose of reviewing air contaminant emission standards applicable to fossil fuel-fired steam generating facilities.]

SUMMARY--Revises provisions relating to subdivisions. (BDR 22-84)
Fiscal Note: Local Government Impact: Yes.
State or Industrial Insurance Impact: Yes.

AN ACT relating to the division of land; revising provisions of NRS respecting the review of proposed subdivisions by certain state and local government agencies; requiring courts to consider zoning requirements in certain proceedings; and providing other matters properly relating thereto.

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

Section 1. Chapter 40 of NRS is hereby amended by adding thereto a new section which shall read as follows:

In any proceeding involving the disposition of land, the court shall consider lot size and other applicable zoning requirements before ordering a physical division of the land.

Sec. 2. Chapter 278 of NRS is hereby amended by adding thereto the provisions set forth as sections 3 to 5, inclusive, of this act.

Sec. 3. 1. The authority of the health division of the department of human resources to review and certify proposed subdivisions and conduct construction or installation inspections shall be exercised by the district board of health or, where

there is no district board of health, then by the incorporated city within whose limits, or the county in whose unincorporated area, the subdivision is to be situated if:

(a) The district board of health or the city or county requests such authority of the health division; and

(b) The health division determines that the district board of health or the city or county is adequately staffed to conduct the subdivision review and inspections.

2. A district board of health or a city or county which conducts reviews and inspections under this section shall certify to the health division within 10 days after approving the tentative map and the final map that the subdivision meets all the requirements of the law concerning sewage disposal, water pollution, water quality and water supply facilities.

3. The state is not chargeable with any expense incurred by a district board of health or a city or county acting pursuant to this section.

Sec. 4. The health division of the department of human resources or the local agency acting pursuant to section 3 of this act shall certify to the public service commission of Nevada within 10 days after approving the final map that the subdivision meets the requirements of public service commission regulations pertaining

to flowing pressures at a utility's distribution main and installation and service connections to a utility's distribution system.

Sec. 5. The tentative map shall be approved, conditionally approved or disapproved by:

1. The health division, or the local agency acting pursuant to section 3 of this act, with respect to sewage disposal, water pollution, water quality and water supply facilities; and

2. The division of water resources with respect to water quantity,
within a reasonable time after it is filed with the division.

Sec. 6. NRS 116.040 is hereby amended to read as follows:

116.040 1. The map or plat shall be certified by the surveyor making [the same, which] it. The certificate shall be substantially as follows:

I, (surveyor's name), do hereby certify that this plat is a true and accurate map of the land surveyed by me and laid out into blocks, lots, streets, alleys and public places at the instance of (give name of owner or trustee); that the location of the blocks, lots, streets, alleys and public places has been definitely established and perpetuated in strict accordance with the law and as shown hereon; that the blocks, lots and public places shown hereon are situate wholly within (give description by metes and bounds or

by legal subdivision); that the survey was completed on the
..... day of (give date).

2. The map or plat shall:

(a) Be acknowledged by the owner [or owners,] or trustee [,]
before [some] an officer authorized by law to take the acknowledg-
ment of conveyances of real property; and

(b) Contain signed and acknowledged evidence by the owner [or
owners of their] of his grant of permanent easements for utility
installations and access, as designated on the map, together with
a statement approving such easements, signed by each public
utility company or agency in whose favor the easements are granted
or whose utility services are to be required for the platted
parcels.

(c) If the land is situated in any city or town, or outside any
city or town, but within 3 miles of [the] its limits , [of the
same,] be approved by the [legislative authority] governing body
of the city or town in or near which the land is situated, and
in the absence of [such legislative authority,] a governing body,
by the [legislative authority] governing body of the county in
which the city or town is situated; and

(d) If the land is situated more than 1 mile from the limits
of any city or town, be approved by the board of county commis-
sioners of the county in which the land is situated; and

(e) Be approved by the health division of the department of human resources , or the local agency acting pursuant to section 3 of this act, concerning sewage disposal, water pollution, water quality and water supply facilities; and

(f) Be approved by the division of water resources of the state department of conservation and natural resources concerning water quantity.

3. A copy of the approval by the division of water resources required by paragraph (f) of subsection 2 shall be furnished to the subdivider who in turn shall provide a copy of [such] the approval to each purchaser of land in the subdivision prior to the time the sale is completed. No statement of approval as required in paragraphs (e) and (f) of subsection 2 is a warranty or representation in favor of any person as to the safety or quantity of such water.

4. When [so] acknowledged, certified and approved, the original and one copy of the map or plat shall be filed in the office of the county recorder of the county in which the lands [so platted and laid out] are situated and one copy of the map or plat shall be filed, without charge, in the office of the county assessor of the same county . [where the lands are situated.]

5. [No city or] The governing body of a city, town or county [legislative authority] shall not approve or accept for filing

any map or plat under this chapter that does not conform to the requirements of this chapter.

Sec. 7. NRS 117.027 is hereby amended to read as follows:

117.027 At the time any condominium map or plan is presented to the county recorder for recording the following certificates shall be presented to be recorded immediately prior to [such] the map or plan:

1. A subdivision report from a reputable title company showing the names of the parties who may be required to sign the map or plan and guaranteeing that the names of the parties contained therein are the only parties who are required to sign [such] the map or plan.

2. A certificate from a reputable title company showing that there are no liens against the condominium or any part thereof for delinquent state, county, municipal, federal or local taxes or assessments collected as taxes or special assessments.

3. A certificate from:

- (a) The health division of the department of human resources, or the local agency acting pursuant to section 3 of this act, showing that the [health division has approved the] map or plan is approved concerning sewage disposal, water pollution, water quality and water supply facilities.

(b) The division of water resources of the state department of conservation and natural resources [,] showing that the final map is approved concerning water quantity.

4. A copy of the certificate from the division of water resources required by subsection 3 shall be furnished to the condominium subdivider who in turn shall provide a copy of such certificate to each purchaser of a condominium unit prior to the time the sale is completed. No statement of approval as required in subsection 3 is a warranty or representation in favor of any person as to the safety or quantity of such water.

Sec. 8. NRS 278.330 is hereby amended to read as follows:

278.330 1. The initial action in connection with the making of any subdivision [shall be] is the preparation of a tentative map [or maps] which shall show, or be accompanied by, such data as are specified by the provisions of NRS 278.010 to 278.630, inclusive.

2. The subdivider shall file copies of [such map or maps] the map with the planning commission, or with the clerk of the governing body if there [be] is no planning commission , together with a filing fee in an amount as determined by the governing body.

3. The commission, the clerk of the governing body or, when permitted by the governing body, the subdivider or any other

appropriate agency shall distribute copies of the map and any accompanying data to all state and local agencies charged with reviewing the proposed subdivision.

4. If there is no planning commission, the clerk of the governing body shall submit the tentative map to the governing body at its next regular meeting. The governing body shall act [thereon] on it within 40 days after [such] submittal.

[4.] 5. If there is a planning commission, it shall report to the subdivider and to the governing body on the tentative map [or maps of any subdivision submitted to it] within 65 days after [the tentative map] it has been filed . [; and the] The report shall [approve, conditionally approve, or disapprove the map or maps of the subdivision. If conditionally approved or disapproved, the report shall state the conditions under which the map would have been approved or that approval was withheld because the land proposed to be subdivided was not suitable for such development. If approval is withheld, the report shall state the reasons why the land was not considered suitable.] recommend approval, conditional approval or disapproval of the tentative map. If conditional approval is recommended, the report shall state the conditions under which a recommendation of approval would have been given. If disapproval is recommended, the report shall state the reasons why the land was not considered suitable for development.

[5. If the subdivider is dissatisfied with any action of the planning commission, he may, within 15 days after such action, appeal from the action of the planning commission to the governing body which must hear the same, unless the subdivider consents to a continuance, within 10 days or at its next succeeding regular meeting. The governing body may by a majority vote of its members overrule any ruling of the planning commission in regard to the tentative map.]

6. Before approving a tentative map, the governing body shall make such findings as are not inconsistent with the provisions of NRS 278.010 to 278.630, inclusive, or local ordinances adopted pursuant thereto, including but not limited to, findings that the subdivision:

(a) Will not result in undue water or air pollution. In making this determination it shall consider:

(1) The topography of the land and its relation to the flood plains or areas subject to flooding or water damage;

(2) The nature of soils and subsoils and their ability adequately to support waste disposal;

(3) The slope of the land and its effect on effluents;

(4) The effectiveness of sewerage plans; and

(5) The applicable health law and regulations.

(b) Has sufficient water meeting applicable health standards for the reasonably foreseeable needs of the subdivision.

(c) Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.

(d) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.

(e) Will not cause unreasonable street or highway congestion or unsafe conditions with respect to use of the streets or highways existing or proposed.

(f) Is in conformance with the duly adopted master plan, if any.

7. No provision of this chapter [shall be construed to prevent] prevents a governing body from disapproving a tentative map if such disapproval is in the best interests of the public health, safety or welfare, and such disapproval is by a majority vote of its members and made within the time limit provided in subsection [3.] 4.

Sec. 9. NRS 278.340 is hereby amended to read as follows:

278.340 1. [Whenever any] If a subdivider proposes to subdivide any land within 3 miles of the exterior boundary of a city [,] which [city] has a planning commission, the county

planning commission or governing body shall file a copy of the subdivider's tentative map with the city planning commission. The city planning commission shall have not to exceed 30 days' time [for action] to report on the map [and report] to the [governing body of the county in which the subdivision is situated.] authority from which it received the map. The planning commission [or] and the governing body of the county shall take into consideration the report of the city planning commission before respectively reporting on or approving the tentative map . [of any subdivision within the 3-mile limit.]

2. If [such] the city has no planning commission, the county planning commission or governing body shall file a copy of the subdivider's tentative map with the governing body of the city, which shall report to the [planning commission or governing body of the county in which the subdivision is situated] authority from which it received the map within 30 days after such filing. The planning commission [or] and the governing body of the county shall take [such] the report into consideration before respectively reporting on or approving the tentative map . [of any subdivision within the 3-mile limit.]

Sec. 10. NRS 278.345 is hereby amended to read as follows:

278.345 [Whenever any] If a subdivider proposes to subdivide any lands within an incorporated city in a county having a

population of 200,000 or more, as determined by the last preceding national census of the Bureau of the Census of the United States Department of Commerce, which does not have a regional planning commission, the city planning commission or governing body shall file a copy of the subdivider's tentative map [of the proposed subdivision] with the county planning commission. The county planning commission shall have not to exceed 30 days' time [for action] to report on the map [and report] to the governing body of the city in which the subdivision is situated. The planning commission [or] and the governing body of the city shall take into consideration the report of the county planning commission before respectively reporting on or approving the tentative map . [of any subdivision.]

Sec. 11. NRS 278.420 is hereby amended to read as follows:

278.420 The following certificates and acknowledgments shall appear on the final map and may be combined where appropriate:

1. A certificate signed and acknowledged by all parties having any record title interest in the land subdivided, consenting to the preparation and recordation of the map. A lien for state, county, municipal or local taxes and for special assessments or beneficial interest under trust deeds or trust interests under bond indentures [shall not be deemed to be] is not an interest

in land for the purpose of this section. Any map including territory originally patented by the United States or the State of Nevada, under patent reserving interest to either or both of the entities, may be recorded under the provisions of NRS 278.010 to 278.630, inclusive, without the consent of the United States or the State of Nevada thereto, or to dedications made thereon. Signatures required by this section of parties owning rights-of-way, easements or reversions which by reason of changed conditions, long disuse or laches appear to be no longer of practical use or value, and which signatures it is impossible or impracticable to obtain, may be omitted if the names of such parties and the nature of their interest is endorsed on the map, together with a reasonable statement of the circumstances preventing the procurement of such signatures.

2. A certificate, signed and acknowledged as above, offering for dedication for certain specified public uses (subject to such reservations as may be contained in any such offer of dedication) those certain parcels of land which the parties desire so to dedicate. The certificate may state that any certain parcel or parcels are not offered for dedication but a local ordinance may require as a condition precedent to the approval of any final map that any or all of the parcels of land shown

thereon and intended for any public use shall be offered for dedication for public use except those parcels other than streets intended for the exclusive use of the lot owners in such subdivision, their licensees, visitors, tenants and servants.

3. A certificate for execution by the clerk of each approving governing body stating that the body approved the map and accepted or rejected on behalf of the public any parcels of land offered for dedication for public use in conformity with the terms of the offer of dedication.

4. A certificate signed and acknowledged by all parties having any record title in the land subdivided, evidencing their grant of permanent easements for utility installations and access, as designated on the map, together with a statement approving such easements, signed by each public utility company or agency in whose favor the easements are created or whose utility services are to be required for the platted parcels.

5. A certificate by the engineer or surveyor responsible for the survey and final map, giving the date of the survey and stating that the survey was made by him or under his direction, and that the survey is true and complete as shown. The certificate shall also state that the monuments are of the character and occupy

the positions indicated, or that they will be set in such positions and at such time as is agreed upon under the provisions of NRS 278.400.

6. A certificate by the county surveyor if a subdivision lies within an unincorporated area, and if a subdivision lies within a city, a certificate by the city engineer or by the county surveyor when for that purpose appointed by the governing body of the city, stating that he has examined the final map, that the subdivision as shown thereon is substantially the same as it appeared on the tentative map, and any approved alterations thereof, that all provisions of NRS 278.010 to 278.630, inclusive, and of any local ordinance applicable at the time of approval of the tentative map have been complied with, and that he is satisfied that the map is technically correct and that the monuments as shown are of the character and occupy the positions indicated or that the monuments have not been set and that a proper performance bond has been deposited guaranteeing their setting on or before a day certain. The certificate shall be dated and signed by the county surveyor or city surveyor, or by an authorized deputy.

7. A certificate by:

(a) The health division of the department of human resources
, or the local agency acting pursuant to section 3 of this act,

showing that the [health division approved the] final map is approved concerning sewage disposal, water pollution, water quality and water supply facilities.

(b) The division of water resources of the state department of conservation and natural resources [,] showing that the final map is approved concerning water quantity.

8. A copy of the certificate by the division of water resources required by subsection 7 shall be furnished to the subdivider who in turn shall provide a copy of such certificate to each purchaser of land prior to the time the sale is completed. No statement of approval as required in subsection 7 is a warranty or representation in favor of any person as to the safety or quantity of such water.

Sec. 12. NRS 278.430 is hereby amended to read as follows:

278.430 [Whenever] If a governing body [shall have] has adopted a master plan of streets and highways for any area within its jurisdiction, then no plat of a subdivision of land within such territory or part thereof shall be recorded until it [shall have] has been approved by the [planning commission.] governing body.

Sec. 13. NRS 704.679 is hereby repealed.