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Public Entities, Officers, and Employees; annexation of property by cities

NEV. REV. STAT. §268.577 (repealed); §§268.580, 268.582, 268.584, 268.592, 268.596, 268.597 (amended).

AB 522 (Committee on Government Affairs); 1983 STAT. Ch 300

Existing law provides that the governing body of any city in a designated county¹ may extend the corporate limits of the city to include territory that meets certain requirements.² Specifically, the proposed territory may not be included within the boundaries of another *incorporated* city.³ Chapter 300 expands this prohibition⁴ by stating that the proposed territory may not be included within the boundaries of an *unincorporated* town.⁵

Under existing law, annexation proceedings may be initiated upon petition of the Board of County Commissioners.⁶ Prior law permitted cities to initiate annexation proceedings upon petition of *not less than ten percent* of the property owners⁷ in an unincorporated area developed for urban purposes.⁸ With the enactment of Chapter 300, annexation proceedings may be commenced by petition of a *majority* of property owners⁹ in the affected area.¹⁰ Chapter 300 also authorizes initiation of annexation proceedings by motion of the governing body of the city itself.¹¹

1. See NEV. REV. STAT. §268.570 (these provisions apply to cities in counties having a population in excess of 250,000).

2. *Id.* §268.580 (requirements for annexation of territory by cities). Chapter 300 further amends existing law by requiring the annexation ordinance to *accurately describe* the external boundaries of the territory being annexed, rather than requiring that the description be made by metes and bounds. Compare NEV. REV. STAT. §268.596(1) (amended by 1983 Nev. Stat. c. 300, §5(1), at 739) with 1967 Nev. Stat. c. 538, §15(1), at 1607 (enacting NEV. REV. STAT. §268.596).

3. NEV. REV. STAT. §268.580(1)(c).

4. Compare NEV. REV. STAT. §268.580(1)(c) (amended by 1983 Nev. Stat. c. 300, §1, at 737) with 1967 Nev. Stat. c. 538, §7, at 1604 (enacting NEV. REV. STAT. §268.580).

5. NEV. REV. STAT. §268.580(1)(c) (amended by 1983 Nev. Stat. c. 300, 1(c), at 737) (the boundaries of the unincorporated town are to be determined as they existed on July 1, 1983).

6. *Id.* §268.582 (amended by 1983 Nev. Stat. c. 300, §2, at 738).

7. See *County of Clark v. City of North Las Vegas*, 89 Nev. 10, 13, 504 P.2d 1326, 1328 (1973) (interpreting "Ten percent of the property owners" was interpreted as being based not on the number of property owners signing the petition, but rather on the basis of total acreage and assessed valuation).

8. 1967 Nev. Stat. c. 538, §8, at 1605 (enacting NEV. REV. STAT. §268.582) (the area must be approximately described in the petition).

9. NEV. REV. STAT. §268.574(3) (definition of majority of property owners).

10. *Id.* §268.582 (amended by 1983 Nev. Stat. c. 300, §2, at 738).

11. *Id.* These statutory procedural requirements are jurisdictional prerequisites to annexation proceedings by the city. See *County of Clark v. City of North Las Vegas*, 89 Nev. 10, 12, 504 P.2d 1326, 1327 (1973). Where the petitions submitted are inadequate to satisfy the statutory require-

Furthermore, Chapter 300 *affirmatively* restates existing provisions permitting a majority of property owners to protest a proposed annexation.¹² While existing law maintains that this protest may be made either orally at the public hearing or in writing within fifteen days after the conclusion of the hearing, Chapter 300 also authorizes protests to be submitted in writing at the hearing.¹³ If a proper protest is made, the city may not annex any part of the property described in the notice.¹⁴ Chapter 300 further adds, however, that a successful protest does not preclude a subsequent annexation proceeding commenced more than one year after the hearing.¹⁵ If a valid protest is not made, the governing body may adopt an ordinance extending the city limits as described in the notice of public hearing.¹⁶

Under prior law, the governing body of a city could annex vacant or unimproved territory that met specified requirements¹⁷ if all owners of record within the affected area signed a petition requesting the governing body to annex the area.¹⁸ Chapter 300 deletes the requirement that the proposed territory be vacant or unimproved.¹⁹ In addition, a letter from the property owners expressing an intent to develop the property no longer must accompany the submission of the petition.²⁰ Finally, Chapter 300 repeals provisions prohibiting cities from soliciting the commencement of annexation proceedings or from circulating petitions for the annexation of any property to that city.²¹

ments, actions by a city confirming annexation ordinances based on these petitions are held invalid. *Id.* at 14, 504 P.2d at 1329. See also *Sunrise Manor Town Protective Association v. City of North Las Vegas*, 91 Nev. 713, 715, 541 P.2d 1102, 1103 (1975); *City of Las Vegas, Nevada v. City of North Las Vegas, Nevada*, 94 Nev. 705, 705, 585 P.2d 1349, 1350 (1978).

12. NEV. REV. STAT. §268.592(1) (amended by 1983 Nev. Stat. c. 300, §4(1), at 739).

13. *Id.*

14. *Id.*; see also *id.* §268.584 The governing body of any city desiring to annex territory must first pass a resolution that (1) describes the territory to be annexed, (2) fixes the date for a public hearing, and (3) insures that proper notice of the hearing will be given. *Id.* Compare *id.* with *id.* §268.660 (provisions for counties with less than 250,000 persons). See *Majority of Residents of Mongolo Subdivision v. City of Sparks*, 97 Nev. 469, 634 P.2d 466 (1981) (for application of statutory provisions to a case involving annexation of territory by a city in these other counties) The protest was unsuccessful because statutory requirements were met by the annexing city. *Id.*

15. NEV. REV. STAT. §268.592(1) (amended by 1983 Nev. Stat. c. 300, §4(1), at 739).

16. See *id.* §268.592 (amended by 1983 Nev. Stat. c. 300, §4(2), at 739) An annexation ordinance may be adopted at any regular or special meeting of the governing body held not sooner than 16 days, and not later than 90 days after the public hearing. *Id.*

17. See *id.* §268.597 (amended by 1983 Nev. Stat. c. 300, §6, at 740) (requirements of NEV. REV. STAT. §268.580(1) must be met under this alternative procedure).

18. See 1979 Nev. Stat. c. 432, §1, at 790 (enacting NEV. REV. STAT. §268.597).

19. Compare NEV. REV. STAT. §268.597 (amended by 1983 Nev. Stat. c. 300, §6, at 740) with 1979 Nev. Stat. c. 432, §1, at 790 (enacting NEV. REV. STAT. §268.597).

20. NEV. REV. STAT. §268.597. Under Chapter 300, the governing body of a city need no longer notify the clerk of the board of county commissioners of receipt of the petition. *Id.*

21. 1983 Nev. Stat. c. 300, §7, at 740 (repealing NEV. REV. STAT. §268.577).