

Referred to Committee on Judiciary

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

2

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

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

Section 1. Chapter 37 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act:

Sec. 2. *All proceedings under this chapter take precedence over other civil proceedings except matters of a similar nature or other matters given precedence by law.*

Sec. 3. *A person who exercises the powers of eminent domain pursuant to this chapter shall comply with any applicable regulations adopted by the director of the department of transportation pursuant to subsection 2 of NRS 342.105.*

Sec. 4. NRS 37.009 is hereby amended to read as follows:
37.009 As used in this chapter, unless the context otherwise requires:

1. “Date of valuation” means the date on which the value of the property actually taken, and the damages, if any, to the remaining property, must be determined.

1 2. "Final judgment" means a judgment which cannot be directly
2 attacked by appeal, motion for new trial or motion to vacate the judgment.

3 3. "Judgment" means the judgment determining the right to condemn
4 property and fixing the amount of compensation to be paid by the plaintiff.

5 4. "Partnership" includes a limited partnership.

6 5. "Person" includes a government, governmental agency or political
7 subdivision of a government.

8 6. "Value" means the ~~most probable~~ **highest** price which a property
9 would bring in a competitive and open market under the conditions of a
10 fair sale, without the price being affected by undue stimulus, whereby the
11 sale is consummated on a specified date and the title to the property is
12 passed from the seller to the buyer under the following conditions:

13 (a) The buyer and seller are acting prudently and knowledgeably;

14 (b) The buyer and seller are typically motivated;

15 (c) The buyer and seller are well informed or well advised and acting in
16 what they consider are their own best interests;

17 (d) A reasonable time is allowed to expose the property for sale on the
18 open market;

19 (e) Payment is made with United States dollars in cash or pursuant to
20 another financial arrangement comparable thereto; and

21 (f) The sale price represents the normal consideration for the property
22 and is unaffected by special or creative financing or sales concessions
23 granted by any person associated with the sale.

24 **Sec. 5.** NRS 37.110 is hereby amended to read as follows:

25 37.110 **1.** The court, jury, commissioners or master must hear such
26 legal testimony as may be offered by any of the parties to the proceedings,
27 and thereupon must ascertain and assess:

28 ~~1-1~~ **(a)** The value of the property sought to be condemned and all
29 improvements thereon pertaining to the realty, and of each and every
30 separate estate or interest therein; if it consists of different parcels, the
31 value of each parcel and of each estate or interest therein ~~shall~~ **must** be
32 separately assessed.

33 ~~1-2~~ **(b)** If the property sought to be condemned constitutes only a part
34 of a large parcel, the damages which will accrue to the portion not sought
35 to be condemned, by reason of its severance from the portion sought to be
36 condemned, and the construction of the improvement in the manner
37 proposed by the plaintiff.

38 ~~1-3~~ **(c)** If the property, though no part thereof is taken, will be damaged
39 by the construction of the proposed improvement, the amount of such
40 damages.

41 ~~1-4~~ **(d)** Separately, how much the portion not sought to be condemned,
42 and each estate or interest therein, will be benefited, if at all, by the
43 construction of the improvement proposed by the plaintiff; and if the

benefit shall be equal to the damages assessed, under ~~{subsection 2}~~
paragraph (b) of this ~~{section,}~~ *subsection*, the owner of the parcel shall be
allowed no compensation except the value of the portion taken; but if the
benefit shall be less than the damages so assessed, the former shall be
deducted from the latter, and the remainder shall be the only damages
allowed in addition to the value of the portion taken.

~~{5.}~~ *(e)* If the property sought to be condemned be for a railroad, the
cost of good and sufficient fences along the line of such railroad between
such railroad and other adjoining lands of the defendant; and the costs of
cattle guards where fences may cross the line of such railroads.

*(f) The damages for loss of goodwill of a business conducted on the
property sought to be condemned or, if the property constitutes only a
part of a large parcel, on the portion not sought to be condemned, if the
owner of the business proves:*

(1) The loss is caused by the condemnation;

*(2) The loss cannot reasonably be avoided by the owner through
relocation or otherwise;*

*(3) Compensation for the loss will not be included in payments for
relocation assistance to the owner, including, without limitation,
payments for relocation assistance pursuant to chapter 342 of NRS; and*

*(4) Compensation for the loss will not be included in compensation
otherwise awarded to the owner.*

*2. As far as practicable, compensation must be assessed pursuant to
subsection 1 for each source of damages separately.*

*3. No party has the burden of proof as to an amount of
compensation pursuant to subsection 1.*

*4. As used in this section, "goodwill" means the value of a business
over the fair market value of the assets, including, without limitation, the
value of its location, reputation for dependability, skill or quality, and
other attributes that promote retention of existing customers or
acquisition of new customers.*

Sec. 6. NRS 37.120 is hereby amended to read as follows:

37.120 1. To assess compensation and damages as provided in NRS
37.110, the date of the first service of the summons is the date of valuation,
except that ~~1:~~

~~—(a) If the action is not tried within 2 years after the date of the
commencement of the action and the delay is caused primarily by the
plaintiff, the date of valuation is the date of the first service of the
summons or the date of the trial, whichever results in the greater
compensation and damages.~~

~~—(b) If~~ *, if* the action is not tried within 2 years after the date of the
~~{commencement of the action,}~~ *first service of the summons*, and the delay
is *not* caused primarily by the defendant or ~~{, if there is more than one~~

1 ~~defendant, the total delay caused by all the~~ defendants, the date of
2 valuation is ~~[the date of the first service of summons or]~~ the date of the
3 **actual commencement of the trial . [; whichever results in the lesser**
4 ~~compensation and damages.] If a new trial is ordered by a court, the date~~
5 **of valuation is the date of the actual commencement of the new trial**
6 **unless the court, in the best interests of justice, orders otherwise.**

7 2. No improvements put upon the property after the date of the service
8 of the summons may be included in the assessment of compensation or
9 damages, regardless of the date of valuation.

10 3. As used in this section, “primarily” means the greater amount,
11 quantity or quality of acts of the ~~[plaintiff or the]~~ defendant or, if there is
12 more than one defendant, the total delay caused by all the defendants, that
13 would cause the date of the trial to be continued past 2 years after the
14 ~~[commencement of the action.]~~ **date of the first service of the summons.**

15 **Sec. 7.** NRS 37.175 is hereby amended to read as follows:

16 37.175 ~~[1.— Except as otherwise provided in this section, the]~~ **The**
17 plaintiff shall pay interest on the final judgment on the difference between
18 the amount deposited pursuant to NRS 37.100 or 37.170 and the sum of
19 the amount awarded for the taking and any damages awarded ~~[for the~~
20 ~~severance of the property,]~~ **pursuant to this chapter,** excluding costs and
21 attorney’s fees, ~~[at the following rates:~~

22 ~~—(a) From the date of the commencement of the action to the date of the~~
23 ~~final judgment, at a rate equal to the rate of interest fixed for 1-year United~~
24 ~~States treasury bills on the date of the commencement of the action, as~~
25 ~~reported in the “Federal Reserve Bulletin” published by the Board of~~
26 ~~Governors of the Federal Reserve System or another commonly used~~
27 ~~business or financial publication. The rate of interest must be adjusted~~
28 ~~annually thereafter on the anniversary date of the commencement of the~~
29 ~~action. The interest must be compounded annually.~~

30 ~~—(b) From the date of the final judgment to the date the judgment is~~
31 ~~satisfied, at a rate equal to the rate of interest fixed for 1-year United States~~
32 ~~treasury bills on the date of the final judgment, as reported in the “Federal~~
33 ~~Reserve Bulletin” published by the Board of Governors of the Federal~~
34 ~~Reserve System or another commonly used business or financial~~
35 ~~publication. The rate of interest must be adjusted annually thereafter on the~~
36 ~~anniversary date of the final judgment. The interest must be compounded~~
37 ~~annually.~~

38 ~~—2.— The plaintiff is not required to pay interest on any amount deposited~~
39 ~~pursuant to the provisions of NRS 37.100 or 37.170.~~

40 ~~—3.— No interest is required to be paid for the period from the date of a~~
41 ~~trial which is continued past 2 years after the commencement of the action,~~
42 ~~until the date of entry of judgment, if the continuance was caused primarily~~
43 ~~by the defendant or, if there is more than one defendant, the total delay~~

1 ~~caused by all the defendants. As used in this subsection “primarily” means~~
2 ~~the greater amount, quantity or quality of acts of the plaintiff or the~~
3 ~~defendant or, if there is more than one defendant, the total delay caused by~~
4 ~~all defendants that would cause the trial to be continued past 2 years after~~
5 ~~the commencement of the action.] as provided in NRS 17.130.~~

6 **Sec. 8.** NRS 37.200 is hereby amended to read as follows:

7 37.200 **1.** Except as otherwise provided in this chapter, the
8 provisions of NRS, Nevada Rules of Civil Procedure and Nevada Rules of
9 Appellate Procedure relative to civil actions, new trials and appeals shall
10 be applicable to and constitute the rules of practice in the proceedings in
11 this chapter.

12 **2.** *The plaintiff may not make an offer of judgment pursuant to NRS*
13 *17.115 or Rule 68 of the Nevada Rules of Civil Procedure.*

~