

SENATE BILL NO. 265—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 1, 2001

Referred to Committee on Government Affairs

SUMMARY—Requires city or county to pay just compensation or authorize alternative location for certain structures or uses of property under certain circumstances. (BDR 22-156)

FISCAL NOTE: Effect on Local Government: Yes.
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 zoning; requiring a city or county to pay just compensation or authorize an alternative location for certain structures or uses of property under certain circumstances; and providing other matters properly relating thereto.

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

- 1 **Section 1.** Chapter 278 of NRS is hereby amended by adding thereto a
- 2 new section to read as follows:
- 3 *1. If a city or county, through the adoption, operation or*
- 4 *enforcement of any ordinance or code, prohibits the continuation of a*
- 5 *nonconforming use or requires the removal of a nonconforming*
- 6 *structure, the city or county shall:*
- 7 *(a) Pay just compensation for the loss of the nonconforming use or*
- 8 *nonconforming structure to the owner of the nonconforming use or*
- 9 *nonconforming structure and to the owner of the real property upon*
- 10 *which the nonconforming use or nonconforming structure is located; or*
- 11 *(b) Authorize the owner of the nonconforming use or nonconforming*
- 12 *structure to relocate the nonconforming use or nonconforming structure*
- 13 *to a site that is determined by the city or county and the owner of the*
- 14 *nonconforming use or nonconforming structure to be a comparable site,*
- 15 *if the relocation will not materially damage the owner of the real*
- 16 *property upon which the nonconforming use or nonconforming structure*
- 17 *is located.*
- 18 *2. If a city or county prohibits the expansion or enlargement of a*
- 19 *nonconforming use or nonconforming structure and prohibits the owner*
- 20 *of the nonconforming use or nonconforming structure from routinely*
- 21 *maintaining the nonconforming use or nonconforming structure, the city*
- 22 *or county shall provide just compensation or authorize a comparable*



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1 alternative location for the nonconforming use or nonconforming
2 structure in the same manner as if the city or county had prohibited the
3 continuation of the nonconforming use or had required the removal of
4 the nonconforming structure pursuant to subsection 1. If a city or county
5 prohibits the expansion or enlargement of a nonconforming use or
6 nonconforming structure but allows the owner of the nonconforming use
7 or nonconforming structure to maintain routinely the nonconforming
8 use or nonconforming structure, the city or county is not required to
9 provide just compensation or authorize a comparable location for the
10 nonconforming use or nonconforming structure.

11 3. If the owner of a nonconforming use or nonconforming structure
12 or the owner of the real property upon which the nonconforming use or
13 nonconforming structure is located disagrees with the amount of just
14 compensation the city or county determines should be paid to him, such
15 owner may appeal the determination to a court of competent jurisdiction.

16 4. A city or county shall not allow or require the discontinuation of a
17 nonconforming use or the removal of a nonconforming structure to
18 occur pursuant to an amortization schedule, regardless of the length of
19 the period set forth in the amortization schedule.

20 5. As used in this section:

21 (a) "Amortization schedule" means an extended period over which a
22 person discontinues a nonconforming use or removes a nonconforming
23 structure.

24 (b) "Just compensation" means the most probable price that a
25 nonconforming use or nonconforming structure would bring in a
26 competitive and open market under the conditions of a fair sale, without
27 the price being affected by undue stimulus, whereby the sale is
28 consummated on a specified date and the ownership of the
29 nonconforming use or nonconforming structure properly passes from the
30 seller to the buyer under the following conditions:

31 (1) The buyer and seller are acting prudently and knowledgeably;

32 (2) The buyer and seller are typically motivated;

33 (3) The buyer and seller are well informed or well advised and
34 acting in what they consider are their own best interests;

35 (4) A reasonable time is allowed to expose the nonconforming use
36 or nonconforming structure for sale on the open market;

37 (5) Payment is made with United States dollars in cash or pursuant
38 to another financial arrangement comparable thereto; and

39 (6) The sale price represents the normal consideration for the
40 nonconforming use or nonconforming structure and is unaffected by
41 special or creative financing or sales concessions granted by any person
42 associated with the sale.

43 (c) "Nonconforming structure" means a structure which is
44 constructed or erected in conformance with all applicable local
45 ordinances and codes in effect on the date a building permit is issued for
46 the structure and which does not conform subsequently because of a
47 change to the local ordinances or codes.

48 (d) "Nonconforming use" means a use of property which is in
49 conformance with all applicable local ordinances and codes in effect on



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1 *the date the use is established and which does not conform subsequently*
2 *because of a change to the local ordinances or codes. The term does not*
3 *include:*

4 (1) *A use that is authorized by a special use permit, conditional use*
5 *permit, variance or waiver if, when the special use permit, conditional*
6 *use permit, variance or waiver was first approved, the special use permit,*
7 *conditional use permit, variance or waiver was limited by a specific date*
8 *after which it would be reviewed by the governing body of the city or*
9 *county; or*

10 (2) *A use for which a license or permit that is required by ordinance*
11 *or code for such use has expired and has not been renewed.*
12 *For purposes of this paragraph, a use is established on the date on which*
13 *all licenses and permits that are required by ordinance or code for such*
14 *use have been issued initially for the use.*

15 (e) *“Property owner” means the owner of the real property on which*
16 *the continuation of the nonconforming use is prohibited or from which*
17 *the nonconforming structure must be removed.*

18 **Sec. 2.** This act becomes effective upon passage and approval.

