

ASSEMBLY BILL NO. 479—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF CLARK COUNTY)

MARCH 28, 2005

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing disposal of certain real property. (BDR 20-327)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

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

AN ACT relating to local governments; authorizing a county to sell, lease or exchange certain real property to or with a person who owns land located adjacent to the property; revising the provisions relating to the reconveyance of certain land; authorizing counties to sell, lease or exchange certain land without offering it for reconveyance; authorizing a municipality to sell, lease or exchange certain property that it acquired for the safe and efficient operation of an airport 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:

Section 1. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A board of county commissioners may sell, lease or exchange any real property owned by the county to a person who owns land located adjacent to the property if the board has determined by resolution that:

(a) The property is a:

(1) Remnant that was separated from its original parcel due to the construction of a street, alley, avenue or other thoroughfare, or portion thereof, flood control facility or other public facility; or



1 (2) *Parcel which is subject to a deed restriction prohibiting*
2 *the use of the property by anyone other than the person who owns*
3 *land adjacent to the property; and*

4 (b) *The sale, lease or exchange will be in the best interest of*
5 *the county.*

6 2. *Before the board of county commissioners may sell, lease*
7 *or exchange any real property as provided in subsection 1, it shall:*

8 (a) *Post copies of the resolution described in subsection 1 in*
9 *three public places in the county; and*

10 (b) *Cause to be published at least once a week for 3 successive*
11 *weeks, in a newspaper qualified under chapter 238 of NRS that is*
12 *published in the county in which the real property is located, a*
13 *notice setting forth:*

14 (1) *A description of the real property proposed to be sold,*
15 *leased or exchanged in such a manner as to identify it;*

16 (2) *The minimum price, if applicable, of the real property*
17 *proposed to be sold, leased or exchanged; and*

18 (3) *The places at which the resolution described in*
19 *subsection 1 has been posted pursuant to paragraph (a), and any*
20 *other places at which copies of that resolution may be obtained.*

21 ↪ *If no qualified newspaper is published within the county in*
22 *which the real property is located, the required notice must be*
23 *published in some qualified newspaper printed in the State of*
24 *Nevada and having a general circulation within that county.*

25 3. *If the board of county commissioners by its resolution*
26 *further finds that the property to be sold is worth more than*
27 *\$1,000, the board shall appoint one or more disinterested,*
28 *competent real estate appraisers to appraise the property. Except*
29 *as otherwise provided in subsection 4, the board shall not sell,*
30 *lease or exchange the property for less than the appraised value,*
31 *as determined by the real estate appraisers appointed by the board.*

32 4. *If the board of county commissioners exchanges real*
33 *property with the person who owns land located adjacent to the*
34 *property, the property must be exchanged for other real property*
35 *of substantially equal value or for other real property plus an*
36 *amount of money equal to the difference in value, so long as the*
37 *board has also determined by resolution that the acquisition of the*
38 *other property will be in the best interest of the county.*

39 5. *If the property is appraised at \$1,000 or more, the board of*
40 *county commissioners may sell it either for cash or for not less*
41 *than 25 percent cash down and upon deferred payments over a*
42 *period of not more than 10 years, secured by a mortgage or deed*
43 *of trust, bearing such interest and upon such further terms as the*
44 *board of county commissioners may specify.*



1 ***6. A board of county commissioners that sells, leases or***
2 ***exchanges real property pursuant to this section is not required to***
3 ***offer to reconvey the property to the person from whom the***
4 ***property was received or acquired by donation, dedication,***
5 ***eminent domain or purchase under the threat of eminent domain,***
6 ***as provided in NRS 244.290.***

7 ***7. As used in this section, "flood control facility" has the***
8 ***meaning ascribed to it in NRS 244.276.***

9 **Sec. 2.** NRS 244.281 is hereby amended to read as follows:

10 244.281 Except as otherwise provided in NRS 244.276,
11 244.279, 244.2825 and 244.288 ~~and~~ ***and section 1 of this act:***

12 1. When a board of county commissioners has determined by
13 resolution that the sale or exchange of any real property owned by
14 the county will be for purposes other than to establish, align, realign,
15 change, vacate or otherwise adjust any street, alley, avenue or other
16 thoroughfare, or portion thereof, or flood control facility within the
17 county and will be in the best interest of the county, it may:

18 (a) Sell the property at public auction, in the manner prescribed
19 for the sale of real property in NRS 244.282.

20 (b) Sell the property through a licensed real estate broker, or if
21 there is no real estate broker resident of the county, the board of
22 county commissioners may negotiate the sale of the property. No
23 exclusive listing may be given. In all listings, the board of county
24 commissioners shall specify the minimum price, the terms of sale
25 and the commission to be allowed, which must not exceed the
26 normal commissions prevailing in the community at the time.

27 (c) Exchange the property for other real property of substantially
28 equal value, or for other real property plus an amount of money
29 equal to the difference in value, if it has also determined by
30 resolution that the acquisition of the other real property will be in
31 the best interest of the county.

32 2. Before the board of county commissioners may sell or
33 exchange any real property as provided in paragraphs (b) and (c) of
34 subsection 1, it shall:

35 (a) Post copies of the resolution described in subsection 1 in
36 three public places in the county; and

37 (b) Cause to be published at least once a week for 3 successive
38 weeks, in a newspaper qualified under chapter 238 of NRS that is
39 published in the county in which the real property is located, a
40 notice setting forth:

41 (1) A description of the real property proposed to be sold or
42 exchanged in such a manner as to identify it;

43 (2) The minimum price, if applicable, of the real property
44 proposed to be sold or exchanged; and



(3) The places at which the resolution described in subsection 1 has been posted pursuant to paragraph (a), and any other places at which copies of that resolution may be obtained.

➤ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

3. In addition to the requirements set forth in paragraph (b) of subsection 2, in case of:

(a) A sale, the notice must state the name of the licensed real estate broker handling the sale and invite interested persons to negotiate with him.

(b) An exchange, the notice must call for offers of cash or exchange. The ~~commission~~ *board of county commissioners* shall accept the highest and best offer.

4. If the board of county commissioners by its resolution further finds that the property to be sold is worth more than \$1,000, the board shall appoint one or more disinterested, competent real estate appraisers to appraise the property ~~and~~ and, except for property acquired pursuant to NRS 371.047, shall not sell or exchange it for less than the appraised value.

5. If the property is appraised at \$1,000 or more, the board of county commissioners may sell it either for cash or for not less than 25 percent cash down and upon deferred payments over a period of not more than 10 years, secured by a mortgage or deed of trust, bearing such interest and upon such further terms as the board of county commissioners may specify.

6. As used in this section, "flood control facility" has the meaning ascribed to it in NRS 244.276.

Sec. 3. NRS 244.283 is hereby amended to read as follows:

244.283 1. When the board of county commissioners determines that the lease of real property belonging to the county for industrial, commercial, residential or recreational purposes is necessary or desirable, the board may lease such real property, whether acquired by purchase, dedication or otherwise. Such a lease must not be in contravention of any condition in a gift or devise of real property to the county.

2. Except as otherwise provided in NRS 244.279, before ordering the lease of any property, the board shall, in open meeting by a majority vote of the members, adopt a resolution declaring its intention to lease the property. The resolution must:

(a) Describe the property proposed to be leased in such manner as to identify it.

(b) Specify the minimum rental, and the terms upon which it will be leased.



1 (c) Fix a time, not less than 3 weeks thereafter, for a public
2 meeting of the board to be held at its regular place of meeting, at
3 which sealed proposals to lease will be received and considered.

4 3. Notice of the adoption of the resolution and of the time and
5 place of holding the meeting must be given by:

6 (a) Posting copies of the resolution in three public places in the
7 county not less than 15 days before the date of the meeting; and

8 (b) Publishing the resolution not less than once a week for 2
9 successive weeks before the meeting in a newspaper of general
10 circulation published in the county, if any such newspaper is
11 published therein.

12 4. At the time and place fixed in the resolution for the meeting
13 of the board, all sealed proposals which have been received must, in
14 public session, be opened, examined and declared by the board. Of
15 the proposals submitted which conform to all terms and conditions
16 specified in the resolution of intention to lease and which are made
17 by responsible bidders, the proposal which is the highest must be
18 finally accepted, unless a higher oral bid is accepted or the board
19 rejects all bids.

20 5. Before accepting any written proposal, the board shall call
21 for oral bids. If, upon the call for oral bidding, any responsible
22 person offers to lease the property upon the terms and conditions
23 specified in the resolution, for a rental exceeding by at least 5
24 percent the highest written proposal, then the highest oral bid which
25 is made by a responsible person must be finally accepted.

26 6. A person may not make an oral bid unless, at least 5 days
27 before the meeting held for receiving and considering bids, he
28 submits to the board written notice of his intent to make an oral bid
29 and a statement establishing his financial responsibility to the
30 satisfaction of the board.

31 7. The final acceptance by the board may be made either at the
32 same session or at any adjourned session of the same meeting held
33 within the 10 days next following.

34 8. The board may, either at the same session or at any
35 adjourned session of the same meeting held within the 10 days next
36 following, if it deems such action to be for the best public interest,
37 reject any and all bids, either written or oral, and withdraw the
38 property from lease.

39 9. Any resolution of acceptance of any bid made by the board
40 must authorize and direct the chairman to execute a lease and to
41 deliver it upon performance and compliance by the lessee with all
42 the terms or conditions of his contract which are to be performed
43 concurrently therewith.



10. All money received from rentals of real property must be deposited forthwith with the county treasurer to be credited to the county general fund.

11. This section does not apply to leases of real property made pursuant to NRS 244.288, 334.070 or 338.177 ~~or section 1 of this act.~~

Sec. 4. NRS 244.290 is hereby amended to read as follows:

244.290 1. Except as otherwise provided in NRS 278.480 for the vacation of streets and easements, the board of county commissioners of any county may reconvey all the right, title and interest of the county in and to any land donated, dedicated, acquired in accordance with chapter 37 of NRS, or purchased under the threat of an eminent domain proceeding for a public park, public square, public landing, *public roadway, right-of-way*, agricultural fairground, aviation field, automobile parking ground or facility for the accommodation of the traveling public, or land held in trust for the public for any other public use or uses, or any part thereof, to the person:

(a) By whom the land was donated or dedicated or to his heirs, assigns or successors, upon such terms as may be prescribed by a resolution of the board; or

(b) From whom the land was acquired in accordance with the provisions of chapter 37 of NRS, or purchased under the threat of an eminent domain proceeding, or to his heirs, assigns or successors, for an amount equal to the appraised value of the land at the time of the reconveyance ~~or~~

~~➔ The reconveyance may be made whether the land is held by the county solely or as tenant in common with any municipality or other political subdivision of this State under the dedication.~~

~~2. If the county has a planning commission, the board shall refer the proposal for reconveyance to the planning commission which shall consider the proposal and submit its recommendation to the board.~~

~~3. The board shall hold at least one public hearing upon the proposal for reconveyance. Notice of the time and place of the hearing must be:~~

~~(a) Published at least once in a newspaper of general circulation in the county;~~

~~(b) Mailed to all owners of record of real property located within 300 feet of the land proposed for reconveyance; and~~

~~(c) Posted in a conspicuous place on the property and, in this case, must set forth additionally the extent of the proposal for reconveyance.~~

~~➔ The hearing must be held not less than 10 days nor more than 40 days after the notice is so published, mailed and posted.~~



1 ~~—4.—If~~, as determined by one or more disinterested, competent
2 real estate appraisers appointed by the board.

3 2. Except as otherwise provided in subsections 5 and 6, if the
4 board ~~[, after the hearing,]~~ determines that maintenance of the
5 property ~~[by the county solely or with a co-owner]~~ is unnecessarily
6 burdensome *to the county* or that reconveyance would be ~~[otherwise~~
7 ~~advantageous to]~~ *in the best interest of* the county and its ~~[citizens,]~~
8 *residents*, the board ~~[shall]~~ *may* formally adopt a resolution stating
9 that determination. Upon the adoption of the resolution, the
10 chairman *or an authorized representative* of the board shall
11 ~~[execute a deed]~~ *issue a written offer* of reconveyance *to the person*
12 *from whom the land was received or acquired, or his successor in*
13 *interest.*

14 3. *If the person from whom the land was received or*
15 *acquired, or his successor in interest, accepts the offer of*
16 *reconveyance within 45 days after the date of the offer, the board*
17 *shall execute a deed of reconveyance* on behalf of the county and
18 the county clerk shall attest the deed under the seal of the county.

19 ~~[5.—The board may sell land which has been donated, dedicated,~~
20 ~~acquired in accordance with chapter 37 of NRS, or purchased under~~
21 ~~the threat of an eminent domain proceeding, for a public purpose~~
22 ~~described in subsection 1, or may exchange that land for other land~~
23 ~~of equal value, if:~~

24 ~~—(a) The]~~

25 4. *If the person from whom the land was received or acquired ,*
26 *or his successor in interest , refuses to accept the offer of*
27 *reconveyance or states in writing that he is unable to accept the*
28 *offer of reconveyance* ~~[-or~~

29 ~~—(b)]~~, *the board may sell or exchange the property pursuant to*
30 *the provisions of this chapter.*

31 5. *The board may sell or exchange any land described in*
32 *subsection 1 without offering it for reconveyance pursuant to*
33 *subsections 1 and 2 if the board determines that it is in the best*
34 *interest of the county to sell or exchange the land and:*

35 (a) The land has been combined with other land owned by the
36 county and improved in such manner as would reasonably preclude
37 the division of the land, together with the land with which it has
38 been combined, into separate parcels ~~[+]~~;

39 (b) *The board sells to, or exchanges the land with, another*
40 *county, city or local government or other political subdivision of*
41 *this State;*

42 (c) *The land is a remnant or a portion of the parcel of land*
43 *originally acquired by the county; or*

44 (d) *The sale or exchange of the land is pursuant to*
45 *NRS 244.276.*



1 6. *The board may lease any land described in subsection 1*
2 *without offering it for reconveyance if the board determines that it*
3 *is in the best interest of the county to lease the land to:*

4 (a) *A public utility pursuant to NRS 244.279;*

5 (b) *Any person for industrial, commercial, residential or*
6 *recreational purposes pursuant to NRS 244.283;*

7 (c) *A corporation for public benefit pursuant to NRS 244.284;*
8 *or*

9 (d) *A public agency pursuant to NRS 277.050.*

10 **Sec. 5.** Chapter 496 of NRS is hereby amended by adding
11 thereto a new section to read as follows:

12 1. *Except as otherwise provided in NRS 496.080, if the*
13 *governing board of a municipality has determined that the sale,*
14 *lease or exchange of any real property will be in the best interest*
15 *of the municipality, the municipality may enter into an agreement*
16 *to sell or lease to, or exchange with, a person any real property*
17 *that the municipality has acquired for the safe and efficient*
18 *operation of an airport, including any property which is located in*
19 *an area that is significantly affected by noise created by an airport.*

20 2. *Before the municipality may sell, lease or exchange any*
21 *real property as provided in subsection 1, the municipality shall*
22 *publish notice of its intention in general terms in a newspaper of*
23 *general circulation within the municipality at least once a week*
24 *for 21 days or three times during a period of 10 days. If there is*
25 *not a newspaper of general circulation within the municipality, the*
26 *municipality shall post a notice of its intention in a public place at*
27 *least once a week for 30 days. The notice must specify that a*
28 *regular meeting of the governing body is to be held, at which*
29 *meeting any interested person may appear. No such contract, lease*
30 *or exchange may be entered into by the municipality until after the*
31 *notice has been given and a meeting held as provided in this*
32 *subsection.*

33 3. *The governing body of the municipality shall appoint one*
34 *or more disinterested, competent real estate appraisers to appraise*
35 *the property. The municipality shall not sell or lease the property*
36 *for less than the appraised value, as determined by the real estate*
37 *appraisers appointed by the board. If the real property is*
38 *exchanged with other property, the property must be exchanged*
39 *for other real property of substantially equal value, or for other*
40 *real property plus an amount of money equal to the difference in*
41 *value, so long as the governing body has also determined that the*
42 *acquisition of the other property will be in the best interest of the*
43 *municipality.*



1 **4. Each agreement for the sale, lease or exchange of real**
2 **property entered into pursuant to subsection 1 must include,**
3 **without limitation:**

4 **(a) A finding by the governing body that the intended use of**
5 **the property by the person is compatible with the development and**
6 **operation of the airport.**

7 **(b) If applicable, a provision for the reservation of any**
8 **easements necessary for the operation of the airport.**

9 **(c) A provision that provides immunity to the municipality for**
10 **any damages resulting from noise created by the airport,**
11 **including, without limitation, noise caused by:**

12 **(1) The type or frequency of the operations of the airport;**

13 **(2) The design and layout of the airport;**

14 **(3) The flight patterns of aircraft using the airport; and**

15 **(4) The operation of the airport at night.**

16 **5. A governing body that sells, leases or exchanges real**
17 **property pursuant to this section is not required to offer to**
18 **reconvey the property to the person from whom the property was**
19 **received or acquired by donation, dedication, eminent domain or**
20 **purchase under the threat of eminent domain, as provided in**
21 **NRS 244.290.**

22 **6. As used in this section, "person" means:**

23 **(a) A natural person; or**

24 **(b) Any form of business or social organization and any other**
25 **nongovernmental legal entity, including, without limitation, a**
26 **corporation, partnership, association, trust or unincorporated**
27 **organization.**

28 **Sec. 6.** NRS 496.080 is hereby amended to read as follows:

29 496.080 1. Except as **otherwise provided by federal law or as**
30 **may be limited by the terms and conditions of any grant, loan or**
31 **agreement pursuant to NRS 496.180, every municipality may, by**
32 **sale, lease or otherwise, dispose of any airport, air navigation**
33 **facility [;] or other property, or portion thereof or interest therein,**
34 **acquired pursuant to this chapter.**

35 2. ~~The~~ **Except as otherwise provided in subsection 3 of this**
36 **section, subsections 3, 4 and 5 of NRS 496.090, and section 5 of**
37 **this act, the disposal by sale, lease or otherwise [shall] must be in**
38 **accordance with the laws of this State, or provisions of the charter of**
39 **the municipality, governing the disposition of other property of the**
40 **municipality . [;except that in]**

41 3. **In** the case of disposal to another municipality or agency of
42 the State or Federal Government for aeronautical purposes incident
43 thereto, the sale, lease or other disposal may be effected in such
44 manner and upon such terms as the governing body of the
45 municipality may deem in the best interest of the municipality . ~~;~~



- 1 ~~and except as otherwise provided in subsections 3, 4 and 5 of~~
2 ~~NRS 496.090.]~~
3 **Sec. 7.** This act becomes effective upon passage and approval.



