

Amendment No. 846

Senate Amendment to Assembly Bill No. 143 First Reprint

(BDR 22-44)

Proposed by: Committee on Judiciary**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend section 1, page 2, line 2, by deleting:

“2 and 3” and inserting:

“2, 3 and 4”.

Amend the bill as a whole by renumbering sections 2 through 4 as sections 3 through 5 and adding a new section designated sec. 2, following section 1, to read as follows:

“Sec. 2. “Eligible railroad” means a railroad in existence on or before July 1, 2005:

1. That is located in a county whose population is less than 100,000; and

2. Of which not less than one-half of the ownership interest in the railroad is held by a governmental entity or nonprofit organization, or both.”.

Amend sec. 2, page 2, line 13, by deleting “*summary*” and inserting “*copy*”.

Amend sec. 2, page 3, line 1, by deleting “*summary*” and inserting “*copy*”.

KEL/BAW

Date: 5/23/2005

A.B. No. 143—Makes various changes concerning community redevelopment and eminent domain proceedings.



Amend sec. 2, page 3, line 2, by deleting “*based*” and inserting “*based;*”.

Amend sec. 2, page 3, by deleting lines 3 and 4.

Amend sec. 2, page 3, line 7, after “*request;*” by inserting “*and*”.

Amend sec. 2, page 3, by deleting lines 8 through 11.

Amend sec. 2, page 3, line 12, by deleting “(7)” and inserting “(6)”.

Amend sec. 2, page 3, line 18, by deleting “*Except*”.

Amend sec. 2, page 3, by deleting lines 19 through 21 and inserting:

“If there is more than one owner of the property, notice must be sent to all owners of the property. If the written offer of”.

Amend sec. 2, page 3, by deleting lines 23 and 24 and inserting “*required.*”.

Amend sec. 2, page 3, between lines 28 and 29, by inserting:

“3. If the owner of the property has an appraisal performed on his own behalf, the owner must provide the agency with a copy of the appraisal report.”.

Amend sec. 4, page 3, line 38, by deleting:

“2 and 3” and inserting:

“2, 3 and 4”.

Amend the bill as a whole by renumbering sec. 5 as sec. 7 and adding a new section designated sec. 6, following sec. 4, to read as follows:

“Sec. 6. NRS 279.384 is hereby amended to read as follows:

279.384 As used in NRS 279.382 to 279.685, inclusive, ***and section 2 of this act***, unless the context otherwise requires, the words and terms defined in NRS 279.386 to 279.414, inclusive, ***and section 2 of this act*** have the meanings ascribed to them in those sections.”.

Amend sec. 5, page 3, line 41, by deleting ““Blighted” and inserting:

~~““Blighted”~~

1. Except as otherwise provided in subsection 2, “blighted”.

Amend sec. 5, page 3, line 43, by deleting “1.” and inserting “[1.] (a)”.

Amend sec. 5, page 4, by deleting lines 5 through 35 and inserting:

~~“(a) (1)~~ Defective design and character of physical construction.

~~“(b) (2)~~ Faulty arrangement of the interior and spacing of buildings.

~~“(c) Overcrowding.~~

~~“(d) (3)~~ Inadequate provision for ventilation, light, sanitation, open spaces and recreational facilities.

~~“(e) (4)~~ Age, obsolescence, deterioration, dilapidation, mixed character or shifting of uses.

~~“(2.) (b)~~ An economic dislocation, deterioration or disuse . ~~“resulting from faulty planning.~~

~~—3.] (c)~~ The subdividing and sale of lots of irregular form and shape and inadequate size for proper usefulness and development.

~~“(4.) (d)~~ The laying out of lots in disregard of the contours and other physical characteristics of the ground and surrounding conditions.

~~“(5.) (e)~~ The existence of inadequate streets, open spaces and utilities.

~~“(6.) (f)~~ The existence of lots or other areas which may be submerged.

~~“(7.) (g)~~ Prevalence of depreciated values, impaired investments and social and economic maladjustment to such an extent that the capacity to pay taxes is **substantially** reduced and tax receipts are inadequate for the cost of public services rendered.

~~{8.}~~ (h) A growing or total lack of proper utilization of some parts of the area, resulting in a stagnant and unproductive condition of land which is potentially useful and valuable for contributing to the public health, safety and welfare.

~~{9.}~~ (i) A loss of population and a reduction of proper use of some parts of the area, resulting in its further deterioration and added costs to the taxpayer for the creation of new public facilities and services elsewhere.

(j) *The environmental contamination of buildings or property.*

(k) *The existence of an abandoned mine.*

2. *If the subject of the redevelopment is an eligible railroad or facilities related to an eligible railroad, “blighted area” means an area which is characterized by at least four of the factors set forth in subsection 1 or characterized by one or more of the following factors:*

(a) *The existence of railroad facilities, used or intended to be used, for commercial, industrial or other purposes, or any combination thereof, which are unfit or unsafe for those purposes because of age, obsolescence, deterioration or dilapidation.*

(b) *A growing or total lack of proper utilization of the railroad facilities resulting in a stagnant and unproductive condition of land which is potentially useful and valuable for contributing to the public health, safety and welfare.*

(c) *The lack of adequate rail facilities has resulted or will result in an economic hardship to the community.”.*

Amend the bill as a whole by renumbering sections 6 and 7 as sections 9 and 10 and adding a new section designated sec. 8, following sec. 5, to read as follows:

“**Sec. 8.** NRS 279.408 is hereby amended to read as follows:

279.408 1. “Redevelopment” means the planning, development, replanning, redesign, clearance, reconstruction or rehabilitation, or any combination of these, of all or part of a redevelopment area, and the provision of such residential, commercial, industrial, public or other structures or spaces as may be appropriate or necessary in the interest of the general welfare, including:

(a) Recreational and other facilities appurtenant thereto.

(b) *Eligible railroads or facilities related to eligible railroads.*

(c) The alteration, improvement, modernization, reconstruction or rehabilitation, or any combination thereof, of existing structures in a redevelopment area.

~~{(c)}~~ (d) Provision for uses involving open space, such as:

(1) Streets and other public grounds;

(2) Space around buildings, structures and improvements;

(3) Improvements of recreational areas; and

(4) Improvement of other public grounds.

~~{(d)}~~ (e) The replanning, redesign or original development of undeveloped areas where:

(1) The areas are stagnant or used improperly because of defective or inadequate layouts of streets, faulty layouts of lots in relation to size, shape, accessibility or usefulness, or for other causes;

or

(2) The areas require replanning and assembly of land for reclamation or development in the interest of the general welfare because of widely scattered ownership, tax delinquency or other reasons.

2. “Redevelopment” does not exclude the continuance of existing buildings or uses whose demolition and rebuilding or change of use are not deemed essential to the redevelopment and rehabilitation of the area.”.

Amend sec. 6, page 4, line 43, by deleting “2” and inserting “3”.

Amend sec. 7, page 5, line 18, by deleting “2” and inserting “3”.

Amend the bill as a whole by renumbering sections 8 through 10 as sections 14 through 16 and adding new sections designated sections 11 through 13, following sec. 7, to read as follows:

“**Sec. 11.** NRS 279.519 is hereby amended to read as follows:

279.519 1. A redevelopment area need not be restricted to buildings, improvements or lands which are detrimental or inimical to the public health, safety or welfare, but may consist of an area in which such conditions predominate and injuriously affect the entire area. A redevelopment area may include, in addition to blighted areas, lands, buildings or improvements which are not detrimental to the public health, safety or welfare, but whose inclusion is found necessary for the effective redevelopment of the area of which they are a part.

2. At least 75 percent of the area included within a redevelopment area must be improved land and may include, without limitation:

(a) Public land upon which public buildings have been erected or improvements have been constructed.

(b) Land on which an abandoned mine, landfill or other similar use is located and which is surrounded by or directly abuts the improved land.

3. The area included within a redevelopment area may be contiguous or noncontiguous.

4. *If the subject of the redevelopment is an eligible railroad or facilities related to an eligible railroad, the area included within a redevelopment area may consist of contiguous or noncontiguous vacant land that:*

(a) *Is located near the eligible railroad; and*

(b) *May accommodate commercial or industrial facilities that may use the eligible railroad.*

5. The taxable property in a redevelopment area must not be included in any subsequently created redevelopment area until at least 50 years after the effective date of creation of the first redevelopment area in which the property was included.

~~{5.}~~ 6. As used in this section, “improved land” means ~~{land}~~ :

(a) **Land** that contains structures which:

~~{(a)}~~ (1) Are used for residential, commercial, industrial or governmental purposes; and

~~{(b)}~~ (2) Have been connected to water facilities, sewer facilities or roads, or any combination thereof ~~{,~~

~~{and any}~~ ;

(b) **Any** areas related to ~~{such structures,}~~ *the structures described in paragraph (a)*, including, without limitation, landscaping areas, parking areas, parks and streets ~~{,}~~ ; *and*

(c) *If the subject of the redevelopment is an eligible railroad or facilities related to an eligible railroad:*

(1) *Land on which the eligible railroad is located; and*

(2) *Any areas related to the eligible railroad, including, without limitation, land on which is located railroad tracks, a railroad right-of-way or a facility related to the eligible railroad.*

Sec. 12. NRS 279.586 is hereby amended to read as follows:

279.586 1. If the legislative body determines that:

(a) The redevelopment area includes a blighted area, the redevelopment of which is necessary to effectuate the public purposes declared in NRS 279.382 to 279.685, inclusive;

(b) The redevelopment plan would redevelop the area in conformity with NRS 279.382 to 279.685, inclusive, and is in the interests of the peace, health, safety and welfare of the community;

(c) The redevelopment plan conforms to the general plan of the community;

(d) The condemnation of real property, if provided for in the redevelopment plan, is necessary to the execution of the redevelopment plan and adequate provisions have been made for payment for property to be acquired as provided by law;

(e) Adequate permanent housing is or will be made available in the community for displaced occupants of the redevelopment area at rents comparable to those in the community at the time of displacement, if the redevelopment plan may result in the temporary or permanent displacement of any occupants of housing in the redevelopment area;

(f) All noncontiguous areas of a redevelopment area ~~[are either]~~ :

(1) *Are* blighted or necessary for effective redevelopment; *or*

(2) *Satisfy the requirements set forth in subsection 4 of NRS 279.519;*

(g) Inclusion of any lands, buildings or improvements which are not detrimental to the public health, safety or welfare is necessary for the effective redevelopment of the area of which they are a part; and

(h) Adequate provisions have been made for the payment of the principal of and interest on any bonds which may be issued by the agency, if provided for in the redevelopment plan,

↪ the legislative body may adopt, by ordinance, the plan as the official redevelopment plan for the redevelopment area.

2. The ordinance must:

(a) Contain a legal description of the boundaries of the redevelopment area covered by the redevelopment plan;

(b) Set forth the purposes and intent of the legislative body with respect to the redevelopment area;

(c) Designate the approved plan as the official redevelopment plan of the redevelopment area and incorporate it by reference; and

(d) Contain the determinations of the legislative body as set forth in subsection 1.

Sec. 13. Chapter 37 of NRS is hereby amended by adding thereto a new section to read as follows:

1. Notwithstanding any other provision of law, an agency may not exercise the power of eminent domain to acquire a parcel of property or group of contiguous parcels of property that is more than 40 acres in area for the purpose of open-space use unless:

(a) Before the governing body of the agency votes to commence an action in eminent domain to acquire the property, the agency has negotiated with the owner of the property, in good faith, for a period of not less than 24 months beginning on the date on which the agency provided the written offer of compensation to the owner of the property pursuant to subsection 2, to reach an agreement regarding the amount of compensation to be paid for the property;

(b) The use of the property for the purpose of open-space use conforms with any applicable provisions of the applicable:

- (1) Master plan adopted pursuant to chapter 278 of NRS;*
- (2) Zoning regulations adopted pursuant to chapter 278 of NRS; and*
- (3) Open-space plan adopted pursuant to chapter 376A of NRS;*
- (c) Each acre of the property is necessary for the purpose of open-space use and will be devoted in perpetuity to open-space use; and*
- (d) If the agency is seeking to acquire water rights appurtenant to the property, the agency uses the water beneficially on the property for the purpose of open-space use.*
- 2. To satisfy the requirement to have negotiated with the owner of the property in good faith, pursuant to paragraph (a) of subsection 1, an agency must, at a minimum:*
 - (a) Provide to the owner of the property, by personal delivery or by certified mail, return receipt requested, a written offer of compensation that includes:*
 - (1) A copy of the appraisal report upon which the offer of compensation is based;*
 - (2) A detailed description of the nature of the intended use of each acre of the property and the specific reasons for the necessity of acquiring each acre of the property for the purpose of open-space use;*
 - (3) If the agency is seeking to acquire any water rights appurtenant to the property, a detailed description of the intended beneficial use of the water rights on the property and the specific reasons for the necessity of acquiring the water rights; and*
 - (4) The value of the property, plus damages, if any, as appraised by the agency; and*
 - (b) Attempt to engage in meaningful negotiations with the owner of the property at least once per calendar month during the period described in paragraph (a) of subsection 1.*
- 3. As used in this section:*

(a) “Agency” means the State of Nevada, any political subdivision of the State or any other governmental entity that possesses the power of eminent domain.

(b) “Open-space plan” has the meaning ascribed to it in NRS 376A.010.

(c) “Open-space use” means the use of property:

(1) To promote the conservation of open space and the protection of other natural and scenic resources from unreasonable impairment; or

(2) To protect, conserve or preserve wildlife habitat.”.

Amend sec. 9, page 5, line 41, by deleting “5” and inserting “7”.

Amend sec. 9, page 5, line 43, by deleting:

“the effective date of this act,” and inserting:

“October 1, 2005,”.

Amend sec. 9, page 5, line 45, by deleting:

“the effective date of this act.” and inserting:

“October 1, 2005.”.

Amend the title of the bill, sixth line, after “Law;” by inserting:

“establishing certain requirements that a governmental entity must meet before exercising the power of eminent domain to acquire certain property for the purpose of open-space use;”.

**If this amendment is adopted, the Legislative
Counsel's Digest will be changed to read as follows:**

Legislative Counsel's Digest:

Existing law allows a redevelopment agency to exercise the power of eminent domain to acquire property for a redevelopment project. (Chapters 37 and 279 of NRS)

This bill requires a redevelopment agency to follow certain procedures before exercising the power of eminent domain to acquire property for a redevelopment project, such as attempting to negotiate in good faith with a property owner and attempting to reach an agreement with the owner regarding the amount of compensation to be paid for the property. A redevelopment agency is required to provide a written offer of compensation and notice to an owner that the property is necessary for redevelopment as well as other information.

This bill provides that an agency must give an owner at least 30 days to accept or reject a written offer of compensation before the agency may commence an eminent domain proceeding.

Existing law allows an agency to prepare plans for the redevelopment of a "blighted area," which is currently defined as an area characterized by at least one of several factors set forth in NRS 279.388. (NRS 279.468)

This bill adds the environmental contamination of buildings or property and the existence of an abandoned mine to the factors which characterize a blighted area and increases the number of factors necessary to constitute a blighted area from one or more to at least four. In addition, this bill adds various factors which characterize a blighted area if the subject of the redevelopment is an eligible railroad or facilities related to an eligible railroad.

Existing law provides that in certain larger counties a redevelopment agency may exercise the power of eminent domain for a redevelopment project only if: (1) necessary to carry out the redevelopment plan; (2) the agency adopts a resolution of necessity; and (3) the agency complies with certain other requirements.

This bill makes those provisions applicable to all counties in this State.

Existing law sets forth the public purposes for which the right of eminent domain may be exercised. (NRS 37.010)

This bill prohibits a governmental entity from exercising the power of eminent domain to acquire a parcel of property or group of contiguous parcels of property that is more than 40 acres in area for the purpose of open-space use unless certain conditions are met, such as an attempt by the entity to negotiate in good faith with the property owner for a period of not less than 24 months and that the use of the property conform to certain adopted plans and regulations. This bill also sets forth the conditions that an entity must meet in order to satisfy the requirement that the entity negotiate in good faith with the property owner.