
SENATE BILL NO. 10—COMMITTEE ON TRANSPORTATION
AND HOMELAND SECURITY

(ON BEHALF OF CLARK COUNTY)

PREFILED JANUARY 31, 2005

Referred to Committee on Transportation and Homeland Security

SUMMARY—Limiting to certain counties right of state residents to petition board of county commissioners concerning use of public roads. (BDR 35-332)

FISCAL NOTE: Effect on Local Government: No.
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 public roads; limiting to certain counties the right of state residents to petition a board of county commissioners to open, reopen, close, relocate or abandon a public road within the county; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law, five or more Nevada residents may petition a board of
2 county commissioners of any county to open, reopen, close, relocate or abandon a
3 public road within the county. (NRS 405.195) In addition, an abutting property
4 owner or a local government may petition a planning commission or the governing
5 body of a city or county to vacate or abandon a street or easement owned by the
6 city or county. (NRS 278.480)

7 This bill prohibits the use of the petition procedure by five or more Nevada
8 residents to open, reopen, close, relocate or abandon a public road in any county
9 with a population of 400,000 or greater (currently Clark County). This bill does not
10 affect the right of an abutting property owner or local government in any county to
11 petition for the vacation or abandonment of a street or easement that is owned by a
12 city or county.



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

- 1 **Section 1.** NRS 405.195 is hereby amended to read as follows:
2 405.195 1. Five or more residents of this State may petition
3 ~~any~~ *the* board of county commissioners *of any county whose*
4 *population is less than 400,000* to open, reopen, close, relocate or
5 abandon a public road within the county. The petition must be
6 accompanied by proof of the petitioners' residency and adequate
7 maps and documentation to justify a hearing on the petition. Upon
8 receipt of such a petition and the required documentation, the board
9 of county commissioners shall set a date to conduct a public hearing
10 on the petition. The date selected must not be earlier than 30 days,
11 nor later than 45 days, after the petition is submitted. In addition to
12 any other notice required by law or ordinance, the board shall cause
13 notice of the time, date and location of the hearing to be published at
14 least once each week for 2 successive weeks in a newspaper of
15 general circulation in the county.
- 16 2. Upon conclusion of the public hearing, the board shall
17 determine whether the road in question has acquired the status of a
18 public road because:
- 19 (a) Construction of the improvement occurred while the land
20 was unappropriated, unreserved public land;
- 21 (b) The improvement was constructed by mechanical means
22 which made the physical change to the natural area necessary for the
23 customary or usual passage of traffic; and
- 24 (c) The right-of-way was:
- 25 (1) Accepted by the state or local government for dedication
26 as a road for public use and thereafter the road was used by the
27 public at large; or
- 28 (2) Accepted by use as access to a mining claim or other
29 privately owned property.
- 30 3. If the board concludes that the road is a public road, the
31 board may order the public road to be opened, reopened, closed,
32 relocated or abandoned, for all or part of the year. The board's
33 decision must be based on specific findings, including, but not
34 limited to:
- 35 (a) The resulting benefit to the general public;
- 36 (b) Whether any significant impairment of the environment or
37 natural resources will result; and
- 38 (c) Whether the decision will result in a significant reduction in
39 the value of public or private property.
- 40 ➤ The order of the board must be reduced to writing, including a
41 statement of any actions which must be taken to effectuate the
42 decision and the person to whom each such action has been



1 assigned. If possible, the order must be signed by any person who
2 has agreed to take a specific action to effectuate the board's
3 decision. The lack of such a signature does not invalidate the order.

4 4. If the order of the board is to close or abandon a public road,
5 the board shall, upon the petition of five or more residents of the
6 State, designate and provide an alternate route serving the same
7 area. The closure or abandonment of a public road by the board does
8 not prohibit or restrict the use of that road by a governmental agency
9 or a public utility regulated by the Public Utilities Commission of
10 Nevada for the maintenance, construction or operation of a facility
11 of the agency or utility.

12 5. Any person or governmental agency may bring and maintain
13 an action in the district court of the county in which the public road
14 lies to prevent any person, including a public agency, from violating
15 an order issued pursuant to subsection 3.

16 6. The Attorney General may bring and maintain an action in
17 any court or before any federal agency if an agency or
18 instrumentality of the Federal Government denies the use of a public
19 road located on public land in this State.

20 7. ~~{Nothing in this section affects}~~ *This section does not affect*
21 the right of the Department of Transportation to regulate freeways
22 or highways in this State.



