

ASSEMBLY BILL NO. 120—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE NEVADA ASSOCIATION OF COUNTIES)

FEBRUARY 15, 2007

Referred to Committee on Government Affairs

SUMMARY—Revises notice requirements for a proposal to vacate certain rights-of-way or easements or to vacate or abandon certain streets. (BDR 22-376)

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 land use planning; revising the notice requirements for proposals to vacate certain rights-of-way or easements; providing requirements for notice to certain public utilities and television companies regarding proposals to abandon or vacate certain streets; requiring cities and counties to reserve and convey certain easements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 This bill changes the method by which a city or county that proposes to vacate
2 a right-of-way or easement owned by the city or county, which right-of-way or
3 easement is required for a public purpose, must notify each owner of property
4 abutting the proposed abandonment. This bill requires such notice to be made in a
5 manner that provides confirmation of delivery but does not require the signature of
6 the recipient. (NRS 278.480) This bill also requires a city or county to provide
7 notice to certain public utilities and community antenna television companies
8 before vacating or abandoning a street, and to reserve and convey an easement to
9 the utility or television company if the utility or television company so requests.
10 (NRS 278.480)



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

Section 1. NRS 278.480 is hereby amended to read as follows:

278.480 1. Except as otherwise provided in subsection 11, any abutting owner or local government desiring the vacation or abandonment of any street or easement owned by a city or a county, or any portion thereof, shall file a petition in writing with the planning commission or the governing body having jurisdiction.

2. The governing body may establish by ordinance a procedure by which, after compliance with the requirements for notification of public hearing set forth in this section, a vacation or abandonment of a street or an easement may be approved in conjunction with the approval of a tentative map pursuant to NRS 278.349.

3. A government patent easement which is no longer required for a public purpose may be vacated by:

(a) The governing body; or

(b) The planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, without conducting a hearing on the vacation if the applicant for the vacation obtains the written consent of each owner of property abutting the proposed vacation and any utility that is affected by the proposed vacation.

4. Except as otherwise provided in subsection 3, if any right-of-way *held in fee* or easement required for a public purpose that is owned by a city or a county is proposed to be vacated, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, shall ~~notify by certified mail~~, *not less than 10 business days before the public hearing described in subsection 5:*

(a) *Notify* each owner of property abutting the proposed abandonment. ~~and cause~~ *Such notice must be provided by mail pursuant to a method that provides confirmation of delivery and does not require the signature of the recipient.*

(b) *Cause* a notice to be published at least once in a newspaper of general circulation in the city or county, setting forth the extent of the proposed abandonment and setting a date for public hearing. ~~which must be not less than 10 days and not more than 40 days after the date the notice is first published.~~

5. Except as *otherwise* provided in subsection 6, if, upon public hearing, the governing body, or the planning commission, hearing examiner or other designee, if authorized to take final action by the governing body, is satisfied that the public will not be materially injured by the proposed vacation, it shall order the street or easement vacated. The governing body, or the planning



1 commission, hearing examiner or other designee, if authorized to
2 take final action by the governing body, may make the order
3 conditional, and the order becomes effective only upon the
4 fulfillment of the conditions prescribed. An applicant or other
5 person aggrieved by the decision of the planning commission,
6 hearing examiner or other designee may appeal the decision in
7 accordance with the ordinance adopted pursuant to NRS 278.3195.

8 6. ~~If a utility has an easement over the property,~~ *In addition*
9 *to any other applicable requirements set forth in this section,*
10 *before vacating or abandoning a street,* the governing body ~~of~~ *of*
11 *the local government having jurisdiction over the street,* or the
12 planning commission, hearing examiner or other designee, if
13 authorized to take final action by the governing body, shall provide
14 ~~in its order for the continuation of that easement,~~ *each public*
15 *utility and community antenna television company serving the*
16 *affected area with written notice that a petition has been filed*
17 *requesting the vacation or abandonment of the street. After*
18 *receiving the written notice, the public utility or community*
19 *antenna television company, as applicable, shall respond in*
20 *writing, indicating either that the public utility or community*
21 *antenna television company, as applicable, does not require an*
22 *easement or that the public utility or community antenna*
23 *television company, as applicable, wishes to request the*
24 *reservation of an easement. If a public utility or community*
25 *antenna television company indicates in writing that it wishes to*
26 *request the reservation of an easement, the governing body of the*
27 *local government having jurisdiction over the street that is*
28 *proposed to be vacated or abandoned, or the planning*
29 *commission, hearing examiner or other designee, if authorized to*
30 *take final action by the governing body, shall reserve and convey*
31 *an easement in favor of the public utility or community antenna*
32 *television company, as applicable, and shall ensure that such*
33 *easement is recorded in the office of the county recorder.*

34 7. The order must be recorded in the office of the county
35 recorder, if all the conditions of the order have been fulfilled, and
36 upon the recordation, title to the street or easement reverts to the
37 abutting property owners in the approximate proportion that the
38 property was dedicated by the abutting property owners or their
39 predecessors in interest. In the event of a partial vacation of a street
40 where the vacated portion is separated from the property from which
41 it was acquired by the unvacated portion of it, the governing body
42 may sell the vacated portion upon such terms and conditions as it
43 deems desirable and in the best interests of the city or county. If the
44 governing body sells the vacated portion, it shall afford the right of
45 first refusal to each abutting property owner as to that part of the



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1 vacated portion which abuts his property, but no action may be
2 taken by the governing body to force the owner to purchase that
3 portion and that portion may not be sold to any person other than the
4 owner if the sale would result in a complete loss of access to a street
5 from the abutting property.

6 8. If the street was acquired by dedication from the abutting
7 property owners or their predecessors in interest, no payment is
8 required for title to the proportionate part of the street reverted to
9 each abutting property owner. If the street was not acquired by
10 dedication, the governing body may make its order conditional upon
11 payment by the abutting property owners for their proportionate part
12 of the street of such consideration as the governing body determines
13 to be reasonable. If the governing body determines that the vacation
14 has a public benefit, it may apply the benefit as an offset against a
15 determination of reasonable consideration which did not take into
16 account the public benefit.

17 9. If an easement for light and air owned by a city or a county
18 is adjacent to a street vacated pursuant to the provisions of this
19 section, the easement is vacated upon the vacation of the street.

20 10. In any vacation or abandonment of any street owned by a
21 city or a county, or any portion thereof, the governing body, or the
22 planning commission, hearing examiner or other designee, if
23 authorized to take final action by the governing body, may reserve
24 and except therefrom all easements, rights or interests therein which
25 the governing body, or the planning commission, hearing examiner
26 or other designee, if authorized to take final action by the governing
27 body, deems desirable for the use of the city ~~[-the county or any~~
28 ~~public utility.]~~ *or county.*

29 11. The governing body may establish by local ordinance a
30 simplified procedure for the vacation or abandonment of an
31 easement for a public utility owned or controlled by the governing
32 body.

33 12. As used in this section ~~[-“government”]~~ :

34 (a) *“Community antenna television company” has the*
35 *meaning ascribed to it in NRS 711.030.*

36 (b) *“Government”* patent easement” means an easement for a
37 public purpose owned by the governing body over land which was
38 conveyed by a patent.

39 (c) *“Public utility” has the meaning ascribed to it in*
40 *NRS 360.815.*

41 **Sec. 2.** This act becomes effective on July 1, 2007.

