

SENATE BILL NO. 320—SENATOR BEERS

MARCH 19, 2007

Referred to Committee on Government Affairs

SUMMARY—Exempts the rental or lease of certain space at certain local governmental airports from requirements relating to appraisals and public auctions. (BDR 44-758)

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 airports; exempting the rental or lease of certain space at certain local governmental airports from requirements relating to appraisals and public auctions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Under existing law and with certain exceptions, the governing body of a city is
2 required to obtain two independent appraisals when offering real property for sale
3 or lease and is required to sell or lease the property at auction. (NRS 268.059-
4 268.062) Under existing law, airport authorities created by special acts of the
5 Legislature are required to sell or otherwise dispose of real property by public
6 auction. (Airport Auth. Act for Battle Mountain, § 10; Airport Auth. Act for Carson
7 City, § 9; Reno-Tahoe Airport Auth. Act, § 10) This bill authorizes the governing
8 body of a city located in a county whose population is less than 40,000 (currently
9 counties other than Clark, Washoe, Elko and Douglas Counties, and Carson City)
10 or an airport authority in such a county (currently the Airport Authority of Battle
11 Mountain) to rent or lease space for the parking or storage of aircraft on the
12 grounds of a municipal airport owned or operated by the city or the airport
13 authority without conducting or causing to be conducted an appraisal or a public
14 auction. (NRS 496.080; Airport Auth. Act for Battle Mountain, § 10)

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

1 **Section 1.** NRS 496.080 is hereby amended to read as follows:
2 496.080 1. Except as otherwise provided in subsection 2 or
3 as may be limited by the terms and conditions of any grant, loan or



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1 agreement pursuant to NRS 496.180, every municipality may, by
2 sale, lease or otherwise, dispose of any airport, air navigation
3 facility ~~[]~~ or other property, or portion thereof or interest therein,
4 acquired pursuant to this chapter.

5 2. The disposal by sale, lease or otherwise must be:

6 (a) ~~[Made]~~ *Except as otherwise provided in subsection 3, made*
7 by public auction; and

8 (b) In accordance with the laws of this State, or provisions of the
9 charter of the municipality, governing the disposition of other
10 property of the municipality, except that in the case of disposal to
11 another municipality or agency of the State or Federal Government
12 for aeronautical purposes incident thereto, the sale, lease or other
13 disposal may be effected in such manner and upon such terms as the
14 governing body of the municipality may deem in the best interest of
15 the municipality, and except as otherwise provided in subsections 3,
16 4 and 5 of NRS 496.090.

17 *3. The governing body of a city located in a county whose*
18 *population is less than 40,000 may rent or lease to a person a*
19 *space for the parking or storage of aircraft on the grounds of a*
20 *municipal airport that is owned or operated by the city without*
21 *conducting or causing to be conducted an appraisal or a public*
22 *auction.*

23 **Sec. 2.** NRS 266.267 is hereby amended to read as follows:

24 266.267 1. A city council shall not enter into a lease of real
25 property owned by the city for a term of 3 years or longer or enter
26 into a contract for the sale of real property until after the property
27 has been appraised pursuant to NRS 268.059. Except as otherwise
28 provided in this section, ~~[and]~~ paragraph (a) of subsection 1 of NRS
29 268.050 ~~[]~~ *and subsection 3 of NRS 496.080:*

30 (a) The sale or lease of real property must be made in the
31 manner required pursuant to NRS 268.059, 268.061 and 268.062;
32 and

33 (b) A lease or sale must be made at or above the highest
34 appraised value of the real property as determined pursuant to the
35 appraisal conducted pursuant to NRS 268.059.

36 2. The city council may sell or lease real property for less than
37 its appraised value to any person who maintains or intends to
38 maintain a business within the boundaries of the city which is
39 eligible pursuant to NRS 374.357 for an abatement from the sales
40 and use taxes imposed pursuant to chapter 374 of NRS.

41 **Sec. 3.** NRS 268.059 is hereby amended to read as follows:

42 268.059 1. Except as otherwise provided in NRS 268.048 to
43 268.058, inclusive, and 278.479 to 278.4965, inclusive, *and*
44 *subsection 3 of NRS 496.080*, except as otherwise required by
45 federal law, except as otherwise required pursuant to a cooperative



1 agreement entered into pursuant to NRS 277.050 or 277.053 or an
2 interlocal agreement in existence on October 1, 2004, except if the
3 governing body is entering into a joint development agreement for
4 real property owned by the city to which the governing body is a
5 party, except for a lease of residential property with a term of 1 year
6 or less and except for the sale or lease of real property larger than 1
7 acre which is approved by the voters at a primary or general
8 election, primary or general city election or special election, the
9 governing body shall, when offering any real property for sale or
10 lease:

11 (a) Obtain two independent appraisals of the real property before
12 selling or leasing it. The appraisals must be based on the zoning of
13 the real property as set forth in the master plan for the city and must
14 have been prepared not more than 6 months before the date on
15 which real property is offered for sale or lease.

16 (b) Select the two independent appraisers from the list of
17 appraisers established pursuant to subsection 2.

18 (c) Verify the qualifications of each appraiser selected pursuant
19 to paragraph (b). The determination of the governing body as to the
20 qualifications of the appraiser is conclusive.

21 2. The governing body shall adopt by ordinance the procedures
22 for creating or amending a list of appraisers qualified to conduct
23 appraisals of real property offered for sale or lease by the governing
24 body. The list must:

25 (a) Contain the names of all persons qualified to act as a general
26 appraiser in the same county as the real property that may be
27 appraised; and

28 (b) Be organized at random and rotated from time to time.

29 3. An appraiser chosen pursuant to subsection 1 must provide a
30 disclosure statement which includes, without limitation, all sources
31 of income of the appraiser that may constitute a conflict of interest
32 and any relationship of the appraiser with the property owner or the
33 owner of an adjoining property.

34 4. An appraiser shall not perform an appraisal on any real
35 property offered for sale or lease by the governing body if the
36 appraiser or a person related to the appraiser within the first degree
37 of consanguinity or affinity has an interest in the real property or an
38 adjoining property.

39 **Sec. 4.** NRS 268.061 is hereby amended to read as follows:

40 268.061 Except as otherwise provided in this section and NRS
41 268.063, 268.048 to 268.058, inclusive, and 278.479 to 278.4965,
42 inclusive, *and subsection 3 of NRS 496.080*, except as otherwise
43 provided by federal law, except as otherwise required pursuant to a
44 cooperative agreement entered into pursuant to NRS 277.050 or
45 277.053 or an interlocal agreement in existence on October 1, 2004,



except if the governing body is entering into a joint development agreement for real property owned by the city to which the governing body is a party, except for a lease of residential property with a term of 1 year or less and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election, primary or general city election or special election:

1. If a governing body has determined by resolution that the sale or lease of any real property owned by the city will be in the best interest of the city, it may sell or lease the real property in the manner prescribed for the sale or lease of real property in NRS 268.062.

2. Before the governing body may sell or lease any real property as provided in subsection 1, it shall:

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

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

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

(2) The minimum price, if applicable, of the real property proposed to be sold or leased; 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. If the governing body by its resolution finds additionally that the real property to be sold is worth more than \$1,000, the board shall conduct an appraisal pursuant to NRS 268.059 to determine the value of the real property and, except for real property acquired pursuant to NRS 371.047, shall not sell or lease it for less than the highest appraised value.

4. If the real property is appraised at \$1,000 or more, the governing body may:

(a) Lease the real property; or

(b) Sell the real property for:

(1) Cash; or

(2) Not less than 25 percent cash down and upon deferred payments over a period of not more than 10 years, secured by a



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1 mortgage or deed of trust bearing such interest and upon such
2 further terms as the governing body may specify.

3 5. A governing body may sell or lease any real property owned
4 by the city without complying with the provisions of this section
5 and NRS 268.059 and 268.062 to:

6 (a) A person who owns real property located adjacent to the real
7 property to be sold or leased if the governing body has determined
8 by resolution that:

9 (1) The real property is a:

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

14 (II) Parcel that, as a result of its size, is too small to
15 establish an economically viable use by anyone other than the
16 person who owns real property adjacent to the real property offered
17 for sale or lease; or

18 (III) Parcel which is subject to a deed restriction
19 prohibiting the use of the real property by anyone other than the
20 person who owns real property adjacent to the real property offered
21 for sale or lease; and

22 (2) The sale or lease will be in the best interest of the city.

23 (b) Another governmental entity if:

24 (1) The sale or lease restricts the use of the real property to a
25 public use; and

26 (2) The governing body adopts a resolution finding that the
27 sale or lease will be in the best interest of the city.

28 6. A governing body that disposes of real property pursuant to
29 subsection 5 is not required to offer to reconvey the real property to
30 the person from whom the real property was received or acquired by
31 donation or dedication.

32 7. If real property that is offered for sale or lease pursuant to
33 this section is not sold or leased at the initial offering of the contract
34 for the sale or lease of the real property, the governing body may
35 offer the real property for sale or lease a second time pursuant to this
36 section. If there is a material change relating to the title, zoning or
37 an ordinance governing the use of the real property, the governing
38 body must obtain a new appraisal of the real property pursuant to
39 the provisions of NRS 268.059 before offering the real property for
40 sale or lease a second time. If real property that is offered for sale or
41 lease pursuant to this section is not sold or leased at the second
42 offering of the contract for the sale or lease of the real property, the
43 governing body may list the real property for sale or lease at
44 the appraised value with a licensed real estate broker, provided that
45 the broker or a person related to the broker within the first degree of



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1 consanguinity or affinity does not have an interest in the real
2 property or an adjoining property.

3 **Sec. 5.** NRS 268.062 is hereby amended to read as follows:

4 268.062 1. Except as otherwise provided in this section and
5 NRS 268.063, 268.048 to 268.058, inclusive, and 278.479 to
6 278.4965, inclusive, *and subsection 3 of NRS 496.080*, except as
7 otherwise required by federal law, except as otherwise required
8 pursuant to a cooperative agreement entered into pursuant to NRS
9 277.050 or 277.053 or an interlocal agreement in existence on
10 October 1, 2004, except if the governing body is entering into a joint
11 development agreement for real property owned by the city to which
12 the governing body is a party, except for a lease of residential
13 property with a term of 1 year or less and except for the sale or lease
14 of real property larger than 1 acre which is approved by the voters at
15 a primary or general election, the governing body shall, in open
16 meeting by a majority vote of the members and before ordering the
17 sale or lease at auction of any real property, adopt a resolution
18 declaring its intention to sell or lease the property at auction. The
19 resolution must:

20 (a) Describe the property proposed to be sold or leased in such a
21 manner as to identify it;

22 (b) Specify the minimum price and the terms upon which the
23 property will be sold or leased; and

24 (c) Fix a time, not less than 3 weeks thereafter, for a public
25 meeting of the governing body to be held at its regular place of
26 meeting, at which sealed bids will be received and considered.

27 2. Notice of the adoption of the resolution and of the time and
28 place of holding the meeting must be given by:

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

31 (b) Causing to be published at least once a week for 3 successive
32 weeks before the meeting, in a newspaper qualified under chapter
33 238 of NRS that is published in the county in which the real
34 property is located, a notice setting forth:

35 (1) A description of the real property proposed to be sold or
36 leased at auction in such a manner as to identify it;

37 (2) The minimum price of the real property proposed to be
38 sold or leased at auction; and

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

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



3. At the time and place fixed in the resolution for the meeting of the board, all sealed bids which have been received must, in public session, be opened, examined and declared by the governing body. Of the proposals submitted which conform to all terms and conditions specified in the resolution of intention to sell or lease and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral bid is accepted or the governing body rejects all bids.

4. Before accepting any written bid, the governing body shall call for oral bids. If, upon the call for oral bidding, any responsible person offers to buy or lease the property upon the terms and conditions specified in the resolution, for a price exceeding by at least 5 percent the highest written bid, then the highest oral bid which is made by a responsible person must be finally accepted.

5. The final acceptance by the governing body may be made either at the same session or at any adjourned session of the same meeting held within the 21 days next following.

6. The governing body may, either at the same session or at any adjourned session of the same meeting held within the 21 days next following, if it deems the action to be for the best public interest, reject any and all bids, either written or oral, and withdraw the property from sale or lease.

7. Any resolution of acceptance of any bid made by the governing body must authorize and direct the chairman to execute a deed or lease and to deliver it upon performance and compliance by the purchaser or lessor with all the terms or conditions of his contract which are to be performed concurrently therewith.

Sec. 6. Section 10 of the Airport Authority Act for Battle Mountain, being chapter 458, Statutes of Nevada 1983, as last amended by chapter 381, Statutes of Nevada 2005, at page 1470, is hereby amended to read as follows:

Sec. 10. Authority: General powers. The Authority may do all things necessary to accomplish the purposes of this act. The Authority may, by reason of example and not of limitation:

1. Have perpetual succession and sue and be sued.
2. Plan, establish, acquire, construct, improve and operate an airport within Lander County.
3. Acquire real or personal property or any interest therein by gift, lease or purchase for any of the purposes provided in this section, including the elimination, prevention or marking of airport hazards.
4. Except as otherwise provided in this subsection, sell, lease or otherwise dispose of any real property. ~~But~~ **Unless the provisions of subsection 5 apply, if** the Authority sells or



otherwise disposes of real property, the sale or other disposal must be made by public auction.

5. *The Authority may rent or lease to a person a space for the parking or storage of aircraft on the grounds of an airport controlled by the Authority without conducting or causing to be conducted an appraisal or a public auction.*

6. Acquire real property or any interest therein in areas most affected by aircraft noise for the purpose of resale or lease thereof, subject to restrictions limiting its use to industrial or other purposes least affected by aircraft noise.

~~[6.]~~ 7. Enter into agreements with Lander County and Battle Mountain to acquire, by lease, gift, purchase or otherwise, any airport of the county or municipality and to operate the airport.

~~[7.]~~ 8. Exercise the power of eminent domain and dominant eminent domain in the manner provided by law for the condemnation by a town of private property for public use to take any property necessary to the exercise of the powers granted, within the designated district in Lander County.

~~[8.]~~ 9. Apply directly to the proper federal, state, county and municipal officials and agencies or to any other source, public or private, for loans, grants, guarantees or other financial assistance in aid of airports operated by it, and accept the same.

~~[9.]~~ 10. Prepare and adopt a comprehensive, long-term general plan for the physical development of all property owned and operated by the Authority for submission to the Board of County Commissioners of Lander County. The Authority may prepare and adopt for approval by the Board of County Commissioners of Lander County a comprehensive zoning plan of all property owned or operated by the Authority. The zoning plan must be consistent with the requirements of chapter 497 of NRS and any applicable federal laws and regulations.

~~[10.]~~ 11. Have control of its airports with the right and duty to establish and charge fees, rentals, rates and other charges, and collect revenues therefrom, not inconsistent with the rights of the holders of its bonds, and enter into agreements with carriers for the payment of landing fees, rental rates and other charges.

~~[11.]~~ 12. Use in the performance of its functions the officers, agents, employees, services, facilities, records and equipment of Lander County or Battle Mountain, with the consent of the county or municipality and subject to such terms and conditions as may be agreed upon.



1 ~~[12.]~~ 13. Enter upon such lands, waters or premises as in
2 the judgment of the Authority may be necessary for the
3 purpose of making surveys, soundings, borings and
4 examinations to accomplish any purpose authorized by this
5 act. The Authority is liable for actual damage done.

6 ~~[13.]~~ 14. Provide its own fire protection, police and
7 crash and rescue service.

8 ~~[14.]~~ 15. Contract with carriers with regard to landings
9 and the accommodations of the employees and passengers of
10 such carriers.

11 ~~[15.]~~ 16. Contract with persons or corporations to
12 provide goods and services for the use of the employees and
13 passengers of the carriers and the employees of the Authority,
14 as necessary or incidental to the operation of the airports.

15 ~~[16.]~~ 17. Hire and retain officers, agents and employees,
16 including a fiscal adviser, engineers, attorneys or other
17 professional or specialized personnel.

18 ~~[17.]~~ 18. Adopt regulations governing vehicular traffic
19 on its airports relating, but not limited to, speed restrictions,
20 stopping, standing and parking, loading zones, turning
21 movements and parking meters. It is unlawful for any person
22 to do any act forbidden or fail to perform any act required in
23 such regulations.

