

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.

~

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) This bill authorizes the governing body of a city whose population is less
5 than 25,000 (currently Boulder City, Caliente, Carlin, Elko, Ely, Fallon, Fernley,
6 Lovelock, Mesquite, Wells, West Wendover, Winnemucca and Yerington) to rent
7 or lease space that is less than one-half of an acre for the parking or storage of
8 aircraft on the grounds of an airport owned or operated by the city without
9 conducting or causing to be conducted an appraisal or a public auction.
10 (NRS 496.080)

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
4 agreement pursuant to NRS 496.180, every municipality may, by
5 sale, lease or otherwise, dispose of any airport, air navigation



1 facility ~~and~~ or other property, or portion thereof or interest therein,
2 acquired pursuant to this chapter.

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

4 (a) ~~Made~~ *Except as otherwise provided in subsection 3, made*
5 by public auction; and

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

15 *3. The governing body of a city whose population is less than*
16 *25,000 may rent or lease to a person a space that is less than one-*
17 *half of an acre for the parking or storage of aircraft on the*
18 *grounds of a municipal airport that is owned or operated by the*
19 *city without conducting or causing to be conducted an appraisal or*
20 *a public auction.*

21 **Sec. 1.2.** (Deleted by amendment.)

22 **Sec. 1.4.** (Deleted by amendment.)

23 **Sec. 1.6.** (Deleted by amendment.)

24 **Sec. 1.8.** (Deleted by amendment.)

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

26 266.267 1. A city council shall not enter into a lease of real
27 property owned by the city for a term of 3 years or longer or enter
28 into a contract for the sale of real property until after the property
29 has been appraised pursuant to NRS 268.059. Except as otherwise
30 provided in this section, ~~and~~ paragraph (a) of subsection 1 of NRS
31 268.050 ~~and~~ *and subsection 3 of NRS 496.080:*

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

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

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

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

44 268.059 1. Except as otherwise provided in NRS 268.048 to
45 268.058, inclusive, and 278.479 to 278.4965, inclusive, *and*



* S B 3 2 0 R 2 *

subsection 3 of NRS 496.080, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 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, the governing body shall, when offering any real property for sale or lease:

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

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

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

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

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

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

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

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

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

268.061 Except as otherwise provided in this section and NRS 268.063, 268.048 to 268.058, inclusive, and 278.479 to 278.4965, inclusive, **and subsection 3 of NRS 496.080**, except as otherwise provided by federal law, except as otherwise required pursuant to a



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

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

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

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

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

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

25 (2) The minimum price, if applicable, of the real property
26 proposed to be sold or leased; and

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

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

34 3. If the governing body by its resolution finds additionally that
35 the real property to be sold is worth more than \$1,000, the board
36 shall conduct an appraisal pursuant to NRS 268.059 to determine the
37 value of the real property and, except for real property acquired
38 pursuant to NRS 371.047, shall not sell or lease it for less than the
39 highest appraised value.

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

42 (a) Lease the real property; or

43 (b) Sell the real property for:

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

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

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

(1) The real property is a:

(I) 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;

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

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

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

(b) Another governmental entity if:

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

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

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

7. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the initial offering of the contract for the sale or lease of the real property, the governing body may offer the real property for sale or lease a second time pursuant to this section. If there is a material change relating to the title, zoning or an ordinance governing the use of the real property, the governing body must obtain a new appraisal of the real property pursuant to the provisions of NRS 268.059 before offering the real property for sale or lease a second time. If real property that is offered for sale or lease pursuant to this section is not sold or leased at the second offering of the contract for the sale or lease of the real property, the governing body may list the real property for sale or lease at



1 the appraised value with a licensed real estate broker, provided that
2 the broker or a person related to the broker within the first degree of
3 consanguinity or affinity does not have an interest in the real
4 property or an adjoining property.

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

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

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

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

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

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

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

33 (b) Causing to be published at least once a week for 3 successive
34 weeks before the meeting, in a newspaper qualified under chapter
35 238 of NRS that is published in the county in which the real
36 property is located, a notice setting forth:

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

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

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

44 ➤ If no qualified newspaper is published within the county in which
45 the real property is located, the required notice must be published in



* S B 3 2 0 R 2 *

1 some qualified newspaper printed in the State of Nevada and having
2 a general circulation within that county.

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

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

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

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

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

30 **Sec. 5.5.** (Deleted by amendment.)

31 **Sec. 6.** (Deleted by amendment.)

32 **Sec. 7.** Section 1 of Assembly Bill No. 289 of this session is
33 hereby repealed.

34 **Sec. 8.** 1. This section and section 7 of this act become
35 effective upon passage and approval.

36 2. Sections 2 to 6, inclusive, of this act become effective on
37 October 1, 2007.



TEXT OF REPEALED SECTION

Section 1 of Assembly Bill No. 289 of this session:

Section 1. NRS 496.080 is hereby amended to read as follows:

496.080 1. Except as otherwise provided in subsection 2 or as may be limited by the terms and conditions of any grant, loan or agreement pursuant to NRS 496.180, every municipality may, by sale, lease or otherwise, dispose of any airport, air navigation facility ~~H~~ or other property, or portion thereof or interest therein, acquired pursuant to this chapter.

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

(a) ~~made~~ *Except as otherwise provided in subsection 3, made* by public auction; and

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

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

