

ASSEMBLY BILL NO. 31—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE NEVADA ASSOCIATION OF COUNTIES)

PREFILED DECEMBER 5, 2008

Referred to Committee on Government Affairs

SUMMARY—Revises certain powers of county governments.
(BDR 20-455)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

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EXPLANATION – Matter in **bolded italics** is new; matter between brackets **fomitted-material** is material to be omitted.

AN ACT relating to counties; authorizing boards of county commissioners to adopt procedures to sell the rights to name parks and other recreational and cultural centers owned by the county; requiring boards of county commissioners that sell such naming rights to create an enterprise fund for the park or recreational or cultural center; authorizing a board of county commissioners to provide for the imposition of a civil penalty in lieu of a criminal penalty for the violation of an ordinance concerning the licensing or regulation of businesses unless state law provides a criminal penalty for the same act or omission; revising provisions relating to the removal of graffiti from residential property; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, boards of county commissioners are authorized to acquire parcels of land for park, recreational, cultural and memorial purposes and to operate, maintain and improve public parks and other recreational and cultural centers and areas owned by the county. (NRS 244.300-244.3091) **Section 2** of this bill authorizes a board of county commissioners to sell the naming rights associated with such facilities and specifies the purposes for which proceeds from the sale must be used.

With certain exceptions, existing law authorizes a board of county commissioners to license and regulate business conducted in the county. (NRS 244.335) Existing law also authorizes a board of county commissioners to provide a civil penalty in lieu of a criminal penalty for the violation of certain types of



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ordinances. (NRS 244.189, 244.3575, 244.359) **Section 3** of this bill authorizes a board of county commissioners to provide for the imposition of a civil penalty in lieu of a criminal penalty for the violation of an ordinance concerning the licensing or regulation of businesses unless state law provides a criminal penalty for the same act or omission. A board of county commissioners may delegate to a hearing officer or hearing board the authority to determine whether such an ordinance has been violated and to levy civil penalties therefor. The civil penalties so levied must not exceed \$1,000 per violation.

Existing law authorizes a board of county commissioners to adopt by ordinance procedures to cover or remove graffiti from the exterior of a fence or wall located on the perimeter of residential property. The county must obtain permission from the owner or notify the owner in writing that the graffiti will be covered or removed. The county must also pay the cost of covering or removing the graffiti. (NRS 244.36935) **Section 5** of this bill authorizes a board of county commissioners to adopt by ordinance procedures to require the covering or removal of graffiti that is placed on, and not just located on the perimeter of, residential property. A county may pay the cost of covering or removing the graffiti by imposing a special assessment on the property.

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. 1. *The board of county commissioners of a county may adopt, by ordinance, procedures for the sale of naming rights relating to any public park or recreational or cultural center, including, without limitation, the sale of naming rights to:*

(a) Buildings, improvements, facilities, features, fixtures and sites located within the boundaries of the park or recreational or cultural center; and

(b) Activities, events and programs held at the park or recreational or cultural center.

2. *If the board of county commissioners sells naming rights in accordance with the procedures adopted pursuant to subsection 1, the board shall create an enterprise fund exclusively for the proceeds of the sale of all such naming rights, for fees or charges for use of the park or recreational or cultural center and for any gifts, grants, donations, bequests, devises or money from any other source received for the park or recreational or cultural center. Any interest or other income earned on the money in the fund, after deducting any applicable charges, must be credited to the fund. Money that remains in the fund at the end of a fiscal year does not revert to the county general fund, and the balance in the fund must be carried forward to the next fiscal year. The money in the fund may only be used to pay for expenses directly related to the park or recreational or cultural center.*



1 **Sec. 3. 1. A board of county commissioners may by**
2 **ordinance provide for the imposition of a civil penalty in lieu of a**
3 **criminal penalty for the violation of an ordinance enacted by the**
4 **board concerning the licensing or regulation of businesses, unless**
5 **state law provides a criminal penalty for the same act or omission.**

6 **2. If a board of county commissioners adopts an ordinance**
7 **providing for the imposition of a civil penalty in lieu of a criminal**
8 **penalty as described in subsection 1, the board shall:**

9 **(a) Determine violations and levy civil penalties for those**
10 **violations; or**

11 **(b) Delegate to a hearing officer or hearing board the**
12 **authority to determine violations and levy civil penalties for those**
13 **violations.**

14 **3. The amount of a civil penalty levied pursuant to subsection**
15 **2 must not exceed \$1,000 for each violation.**

16 **4. As used in this section, an ordinance "concerning the**
17 **licensing or regulation of businesses" includes, without limitation,**
18 **an ordinance that:**

19 **(a) Prescribes the criteria that must be satisfied before the**
20 **business may be licensed in the county or its license may be**
21 **renewed in the county;**

22 **(b) Sets forth the licensing fee that must be paid before the**
23 **business may be licensed in the county or its license may be**
24 **renewed in the county;**

25 **(c) Describes the practices, transactions or acts in which a**
26 **business licensed in the county may engage;**

27 **(d) Describes the practices, transactions or acts in which a**
28 **business licensed in the county is prohibited from engaging; or**

29 **(e) Prohibits the operation within the county of a business that**
30 **is:**

31 **(1) Unlicensed; or**

32 **(2) Not licensed to engage in the particular activities in**
33 **which it is engaging.**

34 **Sec. 4. NRS 244.3525 is hereby amended to read as follows:**

35 244.3525 1. The chairman or clerk of the board of county
36 commissioners to enforce NRS 244.331 to 244.3345, inclusive, and
37 244.335 to 244.340, inclusive, **and section 3 of this act**, the
38 chairman or clerk of the license board of the county to enforce NRS
39 244.345 and the chairman or clerk of the liquor board of the county
40 to enforce NRS 244.350, 244.3501 and 244.351 may:

41 (a) Administer oaths and require testimony under oath;

42 (b) Pay witnesses a reasonable allowance for travel and
43 subsistence; and

44 (c) Appoint hearing officers who may administer oaths and
45 receive testimony given under oath.



2. Each hearing officer appointed pursuant to paragraph (c) of subsection 1 must be a resident of this State who is a graduate of:

- (a) An accredited law school; or
- (b) An accredited ~~H~~ 4-year college and has at least 5 years' experience in public administration, ~~and who has completed a course of instruction in administrative law, relating to the provisions of this chapter, offered by the office of the district attorney for the county. This course must consist of at least 4 hours of instruction in a classroom.~~

3. Any notice given by the board must be served in the manner required for civil actions.

Sec. 5. NRS 244.36935 is hereby amended to read as follows:

244.36935 1. The board of county commissioners may adopt by ordinance procedures pursuant to which officers, employees or other designees of the county may cover or remove *, or cause to be covered or removed,* graffiti that is:

(a) Placed on *residential property, including, without limitation, on* the exterior of a fence or wall located on the perimeter of residential property; and

(b) Visible from a public right-of-way ~~H~~, *to protect the public health, safety and welfare of the residents of the county and to prevent blight upon the community.*

2. An ordinance adopted pursuant to subsection 1 must ~~provide that:~~

~~(a) Officers, employees or other designees of the county shall not cover or remove the graffiti unless:~~

~~(1) The owner of the residential property consents to the covering or removal of the graffiti; or~~

~~(2) If the board of county commissioners or its designee is unable to contact the owner of the residential property to obtain his consent, the board first provides the owner of the property with written notice that is:~~

~~(i) :~~

(a) Contain procedures pursuant to which written notice is provided pursuant to subsection 3 that explains to the owner of the property:

(1) The existence on his residential property of graffiti and the date by which he must cover or remove the graffiti; and

(2) That, at his request, the owner will be afforded an opportunity for a hearing and an appeal before the board or its designee;

(b) Provide that the date specified in the notice by which the owner of the property must cover or remove the graffiti is tolled for the period during which the owner requests a hearing and receives a decision; and



(c) Provide the manner in which the county will recover money expended for labor and materials used to cover or remove the graffiti if the owner of the property fails to cover or remove the graffiti.

3. The written notice described in paragraph (a) of subsection 2 must be:

(a) Sent to the owner of the property by certified mail, return receipt requested; and

~~[(4)]~~ (b) Posted on the residential property on which the graffiti will be covered or from which the graffiti will be removed .

~~at least 5 days before the officers, employees or other designees of the county cover or remove the graffiti.~~

~~—(b) The county shall pay the cost of covering or removing the graffiti.~~

4. The board or its designee may direct that the county cover or remove the graffiti and may recover the amount expended by the county for labor and materials used to cover or remove the graffiti if:

(a) The owner of the property has not requested a hearing within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to cover or remove the graffiti by the date specified in the notice;

(b) After a hearing in which the owner of the property did not prevail, the owner has not filed an appeal within the time prescribed in the ordinance adopted pursuant to subsection 1 and has failed to cover or remove the graffiti by the date specified in the order; or

(c) The board has denied the appeal of the owner of the property and the owner has failed to cover or remove the graffiti by the date specified in the order.

5. In addition to any other reasonable means of recovering money expended by the county to cover or remove the graffiti, the board may make the cost of covering or removing the graffiti a special assessment against the residential property on which the graffiti was covered or from which the graffiti was removed.

6. A special assessment authorized pursuant to subsection 5 may be collected at the same time and in the same manner as ordinary county taxes are collected and is subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary county taxes. All laws applicable to the levy, collection and enforcement of county taxes are applicable to such a special assessment.



1 **Sec. 6.** This act becomes effective on July 1, 2009.

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