

ASSEMBLY BILL NO. 68—COMMITTEE
ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE NEVADA LEAGUE OF
CITIES AND MUNICIPALITIES)

PREFILED DECEMBER 15, 2010

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing the sale or lease of real property by cities. (BDR 21-401)

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 cities; exempting certain leases of real property from requirements relating to appraisal and auction; reducing the number of independent appraisals of fair market value required in certain circumstances for the sale or lease of real property by cities; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law sets forth requirements for the sale or lease of real property by
2 incorporated cities. In accordance with these requirements, the governing body of a
3 city is required, with limited exceptions, to obtain two independent appraisals of the
4 fair market value of the real property and to sell or lease the property at publication.
5 (NRS 268.059, 268.061, 268.062) **Section 1** of this bill authorizes a city to lease
6 real property without satisfying such requirements if the real property is less than
7 25,000 square feet and the governing body adopts a resolution stating that the lease
8 is in the best interest of the city. **Section 2** of this bill, in situations in which an
9 appraisal is required, reduces from two to one the number of independent appraisals
10 of the fair market value of real property that a city is required to obtain before
11 offering real property for sale or lease.



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

Section 1. Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The governing body of a city may offer any real property for lease without complying with the provisions of NRS 268.059, 268.061 and 268.062 if:

(a) The area of the real property is less than 25,000 square feet; and

(b) The governing body adopts a resolution stating that it is in the best interest of the city to lease the property:

(1) Without offering the property to the public; and

(2) For less than the fair market value of the real property, if applicable.

2. The governing body shall:

(a) Cause to be published at least once, 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 a description of the real property proposed to be leased in such a manner as to identify it; and

(b) Hold a public hearing on the matter not less than 10 or more than 20 days after the date of publication of the notice.

3. A lease of real property pursuant to this section may be made on such terms and conditions as the governing body of the city deems proper.

Sec. 2. NRS 268.059 is hereby amended to read as follows:

268.059 1. Except as otherwise provided in NRS 268.048 to 268.058, inclusive, 278.479 to 278.4965, inclusive, and subsection ~~3~~ 4 of NRS 496.080, **and section 1 of this act**, 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, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for the sale or lease of real property to the State or another governmental entity 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) ~~Except as otherwise provided in this paragraph, obtain two independent appraisals~~ **Obtain an independent appraisal** of the real property before selling or leasing it. ~~If the governing body holds a public hearing on the matter of the fair market value of the real property, one independent appraisal of the real property is sufficient before selling or leasing it.~~ The appraisal ~~for appraisals, as applicable,~~ must be based on the ~~zoning~~ **fair market value** of the real property ~~as set forth in the master plan for the city~~ and must have been prepared not more than ~~6~~ **12** months before the date on which real property is offered for sale or lease.

(b) Select ~~the one~~ **an** independent appraiser ~~for two independent appraisers, as applicable,~~ from the list of appraisers established pursuant to subsection 2.

(c) Verify the qualifications of ~~each~~ **the** 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.

5. If real property is sold or leased in violation of the provisions of this section:

(a) The sale or lease is void; and

(b) Any change to an ordinance or law governing the zoning or use of the real property is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 3. NRS 268.061 is hereby amended to read as follows:

268.061 1. Except as otherwise provided in this subsection and NRS 268.048 to 268.058, inclusive, 268.063, 278.479 to 278.4965, inclusive, and subsection ~~3~~ **4** of NRS 496.080, **and section 1 of this act**, except as otherwise provided by federal law,



1 except as otherwise required pursuant to a cooperative agreement
2 entered into pursuant to NRS 277.050 or 277.053 or an interlocal
3 agreement in existence on October 1, 2004, except if the governing
4 body is entering into a joint development agreement for real
5 property owned by the city to which the governing body is a party,
6 except for a lease of residential property with a term of 1 year or
7 less, except for the sale or lease of real property to a public utility,
8 as defined in NRS 704.020, to be used for a public purpose and
9 except for the sale or lease of real property larger than 1 acre which
10 is approved by the voters at a primary or general election, primary
11 or general city election or special election:

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

17 (b) Before the governing body may sell or lease any real
18 property as provided in paragraph (a), it shall:

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

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

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

27 (II) The minimum price, if applicable, of the real property
28 proposed to be sold or leased; and

29 (III) The places at which the resolution described in
30 paragraph (a) has been posted pursuant to subparagraph (1), and any
31 other places at which copies of that resolution may be obtained.

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

36 (c) If the governing body by its resolution finds additionally that
37 the real property to be sold is worth more than \$1,000, the
38 governing body shall ~~[-as applicable,]~~ conduct an appraisal ~~for~~
39 ~~appraisals]~~ pursuant to NRS 268.059 to determine the value of the
40 real property. Except for real property acquired pursuant to NRS
41 371.047, the governing body shall not sell or lease it for less than
42 the ~~highest]~~ appraised value.

43 (d) If the real property is appraised at \$1,000 or more, the
44 governing body may:



(1) Lease the real property; or

(2) Sell the real property for:

(I) Cash; or

(II) 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.

(e) 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:

(1) 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 the sale or lease will be in the best interest of the city and 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.

(2) The State or another governmental entity if:

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

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

(f) A governing body that disposes of real property pursuant to paragraph (e) 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.

(g) 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



1 offering of the contract for the sale or lease of the real property, the
2 governing body may list the real property for sale or lease at
3 the appraised value with a licensed real estate broker, provided that
4 the broker or a person related to the broker within the first degree of
5 consanguinity or affinity does not have an interest in the real
6 property or an adjoining property.

7 2. If real property is sold or leased in violation of the
8 provisions of this section:

9 (a) The sale or lease is void; and

10 (b) Any change to an ordinance or law governing the zoning or
11 use of the real property is void if the change takes place within
12 5 years after the date of the void sale or lease.

13 **Sec. 4.** NRS 268.062 is hereby amended to read as follows:

14 268.062 1. Except as otherwise provided in this section and
15 NRS 268.048 to 268.058, inclusive, 268.063, 278.479 to 278.4965,
16 inclusive, and subsection ~~3~~ 4 of NRS 496.080, *and section 1 of*
17 *this act*, except as otherwise required by federal law, except as
18 otherwise required pursuant to a cooperative agreement entered into
19 pursuant to NRS 277.050 or 277.053 or an interlocal agreement in
20 existence on October 1, 2004, except if the governing body is
21 entering into a joint development agreement for real property owned
22 by the city to which the governing body is a party, except for a lease
23 of residential property with a term of 1 year or less, except for the
24 sale or lease of real property to a public utility, as defined in NRS
25 704.020, to be used for a public purpose and except for the sale or
26 lease of real property larger than 1 acre which is approved by the
27 voters at a primary or general election, the governing body shall, in
28 open meeting by a majority vote of the members and before
29 ordering the sale or lease at auction of any real property, adopt a
30 resolution declaring its intention to sell or lease the property at
31 auction. The resolution must:

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

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

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

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

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

43 (b) Causing to be published at least once a week for 3 successive
44 weeks before the meeting, 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 at auction in such a manner as to identify it;

(2) The minimum price of the real property proposed to be sold or leased at auction; 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. At the time and place fixed in the resolution for the meeting of the governing body, 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 chair of the governing body 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 the contract which are to be performed concurrently therewith.

8. The governing body may require any person requesting that real property be sold pursuant to the provisions of this section to deposit a sufficient amount of money to pay the costs to be incurred by the governing body in acting upon the application, including the



1 costs of publication and the expenses of appraisal. This deposit must
2 be refunded whenever the person making the deposit is not the
3 successful bidder. The costs of acting upon the application,
4 including the costs of publication and the expenses of appraisal,
5 must be borne by the successful bidder.

6 9. If real property is sold or leased in violation of the
7 provisions of this section:

8 (a) The sale or lease is void; and

9 (b) Any change to an ordinance or law governing the zoning or
10 use of the real property is void if the change takes place within 5
11 years after the date of the void sale or lease.

12 **Sec. 5.** NRS 268.063 is hereby amended to read as follows:

13 268.063 1. A governing body may sell, lease or otherwise
14 dispose of real property for the purposes of redevelopment or
15 economic development:

16 (a) Without first offering the real property to the public; and

17 (b) For less than fair market value of the real property.

18 2. Before a governing body may sell, lease or otherwise
19 dispose of real property pursuant to this section, the governing body
20 must:

21 (a) ~~[As applicable, obtain]~~ **Obtain** an appraisal ~~[or appraisals]~~ of
22 the property pursuant to NRS 268.059; and

23 (b) Adopt a resolution finding that it is in the best interests of
24 the public to sell, lease or otherwise dispose of the property:

25 (1) Without offering the property to the public; and

26 (2) For less than fair market value of the real property.

27 3. If real property is sold, leased or otherwise disposed of in
28 violation of the provisions of this section:

29 (a) The sale, lease or other disposal is void; and

30 (b) Any change to an ordinance or law governing the zoning or
31 use of the real property is void if the change takes place within
32 5 years after the date of the void sale, lease or other disposal.

33 4. As used in this section:

34 (a) "Economic development" means:

35 (1) The establishment of new commercial enterprises or
36 facilities within the city;

37 (2) The support, retention or expansion of existing
38 commercial enterprises or facilities within the city;

39 (3) The establishment, retention or expansion of public,
40 quasi-public or other facilities or operations within the city;

41 (4) The establishment of residential housing needed to
42 support the establishment of new commercial enterprises or
43 facilities or the expansion of existing commercial enterprises or
44 facilities; or



1 (5) Any combination of the activities described in
2 subparagraphs (1) to (4), inclusive,
3 ➡ to create and retain opportunities for employment for the
4 residents of the city.

5 (b) “Redevelopment” has the meaning ascribed to it in
6 NRS 279.408.

7 **Sec. 6.** This act becomes effective upon passage and approval.

