

ASSEMBLY BILL NO. 125—ASSEMBLYWOMAN KIRKPATRICK

FEBRUARY 14, 2013

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Revises provisions relating to governmental
administration. (BDR 26-30)

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 governmental administration; exempting the
lease of certain state lands from appraisal and certain
procedural requirements; authorizing the discounted lease
of state lands and buildings to certain businesses seeking
to locate or expand in this State; revising provisions
relating to the annual inventory of real property owned by
or leased to the State; and providing other matters
properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the State Land Registrar to lease state land for certain purposes. (Chapter 321 of NRS) **Section 3** of this bill authorizes the lease of state land to certain businesses seeking to locate or expand in this State for less than fair market value for the first year of the lease. **Section 3** requires the State Land Registrar, the Administrator of the State Public Works Division of the Department of Administration and the Executive Director of the Office of Economic Development to approve such a lease and establish the amount of rent to be received for the state land pursuant to the lease.

With limited exceptions, existing law sets forth certain procedural requirements for the sale or lease of state land, which include: (1) the requirement to obtain two independent appraisals of the land; (2) the requirement that the lease be upon sealed bids followed by oral offers; and (3) the requirement that certain leases be approved by the State Board of Examiners and the Interim Finance Committee. (NRS 321.007, 321.335, 322.007) **Sections 1, 1.5, 2, 4 and 5** of this bill except from these requirements the lease of state land if the lease is for less than 25,000 square feet of land or the lease is approved pursuant to **section 3**.

Existing law requires: (1) each state officer, department, agency, board and commission to maintain an inventory of all real property leased to the State; and (2) the Division of State Lands of the State Department of Conservation and Natural



* A B 1 2 5 R 2 *

Resources, the Department of Transportation and the State Public Works Division to maintain an inventory of all real property owned by the State. (NRS 331.110) **Section 8** of this bill provides that each inventory must be provided to the Administrator on or after April 1 but not later than June 30 of each year. **Section 8** also sets forth certain requirements relating to those inventories.

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

Section 1. Chapter 321 of NRS is hereby amended by adding thereto a new section to read as follows:

The State Land Registrar may offer any state land for lease without complying with the provisions of NRS 321.007 or 321.335 if the area of the state land is less than 25,000 square feet.

Sec. 1.5. NRS 321.007 is hereby amended to read as follows:

321.007 1. Except as otherwise provided in subsection 5, NRS 322.063, 322.065 or 322.075, *or section 1 or 3 of this act*, except as otherwise required by federal law, except for land that is sold or leased to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for land that is sold or leased to a state or local governmental entity, except for a lease which is part of a contract entered into pursuant to chapter 333 of NRS and except for land that is sold or leased pursuant to an agreement entered into pursuant to NRS 277.080 to 277.170, inclusive, when offering any land for sale or lease, the State Land Registrar shall:

(a) Except as otherwise provided in this paragraph, obtain two independent appraisals of the land before selling or leasing it. If the Interim Finance Committee grants its approval after discussion of the fair market value of the land, one independent appraisal of the land is sufficient before selling or leasing it. The appraisal or appraisals, as applicable, must have been prepared not more than 6 months before the date on which the land is offered for sale or lease.

(b) Notwithstanding the provisions of chapter 333 of NRS, select the one independent appraiser or two independent appraisers, as applicable, 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 State Land Registrar as to the qualifications of an appraiser is conclusive.

2. The State Land Registrar shall adopt regulations for the procedures for creating or amending a list of appraisers qualified to conduct appraisals of land offered for sale or lease by the State Land Registrar. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the land 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 owner of the land or the owner of an adjoining property.

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

5. If a lease of land is for residential property and the term of the lease is 1 year or less, the State Land Registrar shall obtain an analysis of the market value of similar rental properties prepared by a licensed real estate broker or salesperson when offering such a property for lease.

6. If land 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 land is void if the change takes place within 5 years after the date of the void sale or lease.

Sec. 2. NRS 321.335 is hereby amended to read as follows:

321.335 1. Except as otherwise provided in NRS 321.125, 322.063, 322.065 or 322.075, *or section 1 or 3 of this act*, except as otherwise required by federal law, except for land that is sold or leased to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for land that is sold or leased to a state or local governmental entity, except for a lease which is part of a contract entered into pursuant to chapter 333 of NRS and except for an agreement entered into pursuant to the provisions of NRS 277.080 to 277.170, inclusive, or a lease of residential property with a term of 1 year or less, after April 1, 1957, all sales or leases of any lands that the Division is required to hold pursuant to NRS 321.001, including lands subject to contracts of sale that have been forfeited, are governed by the provisions of this section.

2. Whenever the State Land Registrar deems it to be in the best interests of the State of Nevada that any lands owned by the State and not used or set apart for public purposes be sold or leased, the State Land Registrar may, with the approval of the State Board of Examiners and the Interim Finance Committee, cause those lands to be sold or leased upon sealed bids, or oral offer after the opening of sealed bids for cash or pursuant to a contract of sale or lease, at a price not less than the highest appraised value for the lands plus the costs of appraisal and publication of notice of sale or lease.



* A B 1 2 5 R 2 *

3. Before offering any land for sale or lease, the State Land Registrar shall comply with the provisions of NRS 321.007.

4. After complying with the provisions of NRS 321.007, the State Land Registrar shall cause a notice of sale or lease to be published once a week for 4 consecutive weeks in a newspaper of general circulation published in the county where the land to be sold or leased is situated, and in such other newspapers as the State Land Registrar deems appropriate. If there is no newspaper published in the county where the land to be sold or leased is situated, the notice must be so published in a newspaper published in this State having a general circulation in the county where the land is situated.

5. The notice must contain:

(a) A description of the land to be sold or leased;

(b) A statement of the terms of sale or lease;

(c) A statement that the land will be sold pursuant to subsection 6; and

(d) The place where the sealed bids will be accepted, the first and last days on which the sealed bids will be accepted, and the time when and place where the sealed bids will be opened and oral offers submitted pursuant to subsection 6 will be accepted.

6. At the time and place fixed in the notice published pursuant to subsection 4, all sealed bids which have been received must, in public session, be opened, examined and declared by the State Land Registrar. Of the proposals submitted which conform to all terms and conditions specified in the notice published pursuant to subsection 4 and which are made by responsible bidders, the bid which is the highest must be finally accepted, unless a higher oral offer is accepted or the State Land Registrar rejects all bids and offers. Before finally accepting any written bid, the State Land Registrar shall call for oral offers. If, upon the call for oral offers, any responsible person offers to buy or lease the land upon the terms and conditions specified in the notice, for a price exceeding by at least 5 percent the highest written bid, then the highest oral offer which is made by a responsible person must be finally accepted.

7. The State Land Registrar may reject any bid or oral offer to purchase or lease submitted pursuant to subsection 6, if the State Land Registrar deems the bid or offer to be:

(a) Contrary to the public interest.

(b) For a lesser amount than is reasonable for the land involved.

(c) On lands which it may be more beneficial for the State to reserve.

(d) On lands which are requested by the State of Nevada or any department, agency or institution thereof.

8. Upon acceptance of any bid or oral offer and payment to the State Land Registrar in accordance with the terms of sale specified



* A B 1 2 5 R 2 *

1 in the notice of sale, the State Land Registrar shall convey title by
2 quitclaim or cause a patent to be issued as provided in NRS 321.320
3 and 321.330.

4 9. Upon acceptance of any bid or oral offer and payment to the
5 State Land Registrar in accordance with the terms of lease specified
6 in the notice of lease, the State Land Registrar shall enter into a
7 lease agreement with the person submitting the accepted bid or oral
8 offer pursuant to the terms of lease specified in the notice of lease.

9 10. The State Land Registrar may require any person
10 requesting that state land be sold pursuant to the provisions of this
11 section to deposit a sufficient amount of money to pay the costs to
12 be incurred by the State Land Registrar in acting upon the
13 application, including the costs of publication and the expenses of
14 appraisal. This deposit must be refunded whenever the person
15 making the deposit is not the successful bidder. The costs of acting
16 upon the application, including the costs of publication and the
17 expenses of appraisal, must be borne by the successful bidder.

18 11. If land that is offered for sale or lease pursuant to this
19 section is not sold or leased at the initial offering of the contract for
20 the sale or lease of the land, the State Land Registrar may offer the
21 land for sale or lease a second time pursuant to this section. If there
22 is a material change relating to the title, zoning or an ordinance
23 governing the use of the land, the State Land Registrar must, as
24 applicable, obtain a new appraisal or new appraisals of the land
25 pursuant to the provisions of NRS 321.007 before offering the land
26 for sale or lease a second time. If land that is offered for sale or
27 lease pursuant to this section is not sold or leased at the second
28 offering of the contract for the sale or lease of the land, the State
29 Land Registrar may list the land for sale or lease at the appraised
30 value with a licensed real estate broker, provided that the broker or a
31 person related to the broker within the first degree of consanguinity
32 or affinity does not have an interest in the land or an adjoining
33 property.

34 **Sec. 3.** Chapter 322 of NRS is hereby amended by adding
35 thereto a new section to read as follows:

36 *1. The Administrator of the Division of State Lands of the*
37 *State Department of Conservation and Natural Resources, as ex*
38 *officio State Land Registrar, may lease state land pursuant to NRS*
39 *322.060 for less than the fair market value of the state land for the*
40 *first year of the lease, including, without limitation, without the*
41 *payment of rent for the first year of the lease, to a person who*
42 *intends to locate or expand a business in this State if, except as*
43 *otherwise provided in subsection 5, the business meets the*
44 *requirements of subsection 4.*



* A B 1 2 5 R 2 *

2. Before state land may be leased pursuant to this section, the following persons must approve the lease and establish the recommended amount of rent to be received for the state land:

(a) The Administrator of the Division of State Lands, as ex officio State Land Registrar;

(b) The Administrator of the State Public Works Division of the Department of Administration; and

(c) The Executive Director of the Office of Economic Development.

3. Any lease entered into pursuant to this section must be for a term of at least 10 years.

4. Except as otherwise provided in subsection 5, the lease or agreement may not include a discount to the business for the first year unless:

(a) The business is consistent with:

(1) The State Plan for Economic Development developed by the Executive Director of the Office of Economic Development pursuant to subsection 2 of NRS 231.053; and

(2) Any guidelines adopted by the Executive Director of the Office to implement the State Plan for Economic Development.

(b) The business is registered pursuant to the laws of this State or the person who intends to locate or expand the business in this State commits to obtain a valid business license and all other permits required by the county, city or town in which the business operates.

(c) If the business is a new business in a county whose population is 100,000 or more or a city whose population is 60,000 or more, the business meets at least two of the following requirements:

(1) The business will have 75 or more full-time employees on the payroll of the business by the fourth quarter that it is in operation.

(2) Establishing the business will require the business to make a capital investment of at least \$1,000,000 in this State.

(3) The average hourly wage that will be paid by the new business to its employees in this State is at least 100 percent of the average statewide hourly wage as established by the Employment Security Division of the Department of Employment, Training and Rehabilitation on July 1 of each fiscal year and:

(I) The business will provide a health insurance plan for all employees that includes an option for health insurance coverage for dependents of the employees; and

(II) The cost to the business for the benefits the business provides to its employees in this State will meet the minimum



* A B 1 2 5 R 2 *

1 *requirements for benefits established by the Office by regulation*
2 *pursuant to subsection 8 of NRS 360.750.*

3 *(d) If the business is a new business in a county whose*
4 *population is less than 100,000 or a city whose population is less*
5 *than 60,000, the business meets at least two of the following*
6 *requirements:*

7 *(1) The business will have 15 or more full-time employees*
8 *on the payroll of the business by the fourth quarter that it is in*
9 *operation.*

10 *(2) Establishing the business will require the business to*
11 *make a capital investment of at least \$250,000 in this State.*

12 *(3) The average hourly wage that will be paid by the new*
13 *business to its employees in this State is at least 100 percent of the*
14 *average statewide hourly wage or the average countywide hourly*
15 *wage, whichever is less, as established by the Employment*
16 *Security Division of the Department of Employment, Training and*
17 *Rehabilitation on July 1 of each fiscal year and:*

18 *(I) The business will provide a health insurance plan for*
19 *all employees that includes an option for health insurance*
20 *coverage for dependents of the employees; and*

21 *(II) The cost to the business for the benefits the business*
22 *provides to its employees in this State will meet the minimum*
23 *requirements for benefits established by the Office by regulation*
24 *pursuant to subsection 8 of NRS 360.750.*

25 *(e) If the business is an existing business, the business meets at*
26 *least two of the following requirements:*

27 *(1) The business will increase the number of employees on*
28 *its payroll by 10 percent more than it employed in the immediately*
29 *preceding fiscal year or by six employees, whichever is greater.*

30 *(2) The business will expand by making a capital*
31 *investment in this State in an amount equal to at least 20 percent*
32 *of the value of the tangible property possessed by the business in*
33 *the immediately preceding fiscal year. The determination of the*
34 *value of the tangible property possessed by the business in the*
35 *immediately preceding fiscal year must be made by the:*

36 *(I) County assessor of the county in which the business*
37 *will expand, if the business is locally assessed; or*

38 *(II) The Department of Taxation, if the business is*
39 *centrally assessed.*

40 *(3) The average hourly wage that will be paid by the*
41 *existing business to its new employees in this State is at least the*
42 *amount of the average hourly wage required to be paid by*
43 *businesses pursuant to subparagraph (2) of either paragraph (a)*
44 *or (b) of subsection 2 of NRS 361.0687, whichever is applicable,*
45 *and:*



* A B 1 2 5 R 2 *

1 (I) The business will provide a health insurance plan for
2 all new employees that includes an option for health insurance
3 coverage for dependents of the employees; and

4 (II) The cost to the business for the benefits the business
5 provides to its new employees in this State will meet the minimum
6 requirements for benefits established by the Office by regulation
7 pursuant to subsection 8 of NRS 360.750.

8 (f) In lieu of meeting the requirements of paragraph (c), (d) or
9 (e), if the business furthers the development and refinement of
10 intellectual property, a patent or a copyright into a commercial
11 product, the business meets at least two of the following
12 requirements:

13 (1) The business will have 10 or more full-time employees
14 on the payroll of the business by the fourth quarter that it is in
15 operation.

16 (2) Establishing the business will require the business to
17 make a capital investment of at least \$500,000 in this State.

18 (3) The average hourly wage that will be paid by the new
19 business to its employees in this State is at least the amount of the
20 average hourly wage required to be paid by businesses pursuant to
21 subparagraph (2) of either paragraph (a) or (b) of subsection 2 of
22 NRS 361.0687, whichever is applicable, and:

23 (1) The business will provide a health insurance plan for
24 all employees that includes an option for health insurance
25 coverage for dependents of the employees; and

26 (II) The cost to the business for the benefits the business
27 provides to its employees in this State will meet with minimum
28 requirements established by the Office by regulation pursuant to
29 subsection 8 of NRS 360.750.

30 5. The Executive Director of the Office of Economic
31 Development may waive the requirements of subsection 4 for good
32 cause shown if the lease is for state land of less than 25,000
33 square feet.

34 **Sec. 4.** NRS 322.007 is hereby amended to read as follows:

35 322.007 Any lease of state land, except a lease for residential
36 purposes , ~~for~~ a lease for farming or grazing ~~for~~ or a lease
37 authorized pursuant to section 1 or 3 of this act, whose term
38 extends or is renewable beyond 1 year must be approved by the
39 State Board of Examiners and the Interim Finance Committee.

40 **Sec. 5.** NRS 322.060 is hereby amended to read as follows:

41 322.060 Subject to the provisions of NRS 321.335, leases or
42 easements authorized pursuant to the provisions of NRS 322.050,
43 and not made for the purpose of extracting oil, coal or gas or the
44 utilization of geothermal resources from the lands leased, must be:



1 1. For such areas as may be required to accomplish the purpose
2 for which the land is leased or the easement granted.

3 2. Except as otherwise provided in NRS 322.063, 322.065 and
4 322.067, *and section 3 of this act*, for such term and consideration
5 as the Administrator of the Division of State Lands of the State
6 Department of Conservation and Natural Resources, as ex officio
7 State Land Registrar, may determine reasonable based upon the fair
8 market value of the land.

9 3. Executed upon a form to be prepared by the Attorney
10 General. The form must contain all of the covenants and agreements
11 usual or necessary to such leases or easements.

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

13 **Sec. 7.** (Deleted by amendment.)

14 **Sec. 8.** NRS 331.110 is hereby amended to read as follows:

15 331.110 1. Except as otherwise provided by law, the
16 Administrator may lease and equip office rooms outside of state
17 buildings for the use of state officers, departments, agencies, boards
18 and commissions whenever sufficient space cannot be provided
19 within state buildings. The Administrator shall negotiate, approve
20 and oversee any agreement to lease office rooms pursuant to this
21 section, but no such lease may extend beyond the term of 1 year
22 unless it is reviewed and approved by a majority of the members of
23 the State Board of Examiners. The Attorney General shall approve
24 each lease entered into pursuant to this subsection as to form and
25 compliance with law.

26 2. Notwithstanding any other provision of law, before the
27 Administrator enters into any lease for office rooms for any state
28 officer, department, agency, board or commission, the Administrator
29 shall consider, without limitation:

30 (a) The reasonableness of the terms of the agreement, including,
31 without limitation, the cost; and

32 (b) The availability of space for use by the state officer,
33 department, agency, board or commission in buildings that are
34 owned by or leased to the State.

35 3. Each state officer, department, agency, board and
36 commission shall maintain and , *on or after April 1 but not later*
37 *than June 30 of each year*, provide to the Administrator an
38 inventory of all real property leased to the State that is occupied by
39 or otherwise used by the state officer, department, agency, board
40 and commission. The Division of State Lands, Department of
41 Transportation and State Public Works Division of the Department
42 of Administration shall maintain and , *on or after April 1 but not*
43 *later than June 30 of each year*, provide to the Administrator an
44 inventory of all real property owned by the State. *Each inventory*
45 *must identify:*



* A B 1 2 5 R 2 *

1 *(a) Real property that is being actively used by a state officer,*
2 *department, agency, board or commission.*

3 *(b) Real property that is not being actively used by a state*
4 *officer, department, agency, board or commission.*

5 *(c) Real property that is not being used by a state officer,*
6 *department, agency, board or commission but which is reasonably*
7 *anticipated to be actively used by a state officer, department,*
8 *agency, board or commission in the future.*

9 *(d) Real property that is being actively used as a park or*
10 *wildlife area.*

11 4. Except as otherwise provided in subsection 6, the
12 Administrator shall post on an Internet website maintained by the
13 State a list of all real property owned or leased by the State. Each
14 such listing shall include, without limitation, a brief description of:

15 (a) The location, size and current use of the real property ~~†~~ ,
16 *including, without limitation, whether the real property is actively*
17 *used;* and

18 (b) The terms of the lease, including, without limitation, the cost
19 to the State.

20 5. Before submitting the inventory to the Administrator
21 pursuant to subsection 3, a state officer, department, agency, board,
22 commission, the Division of State Lands, Department of
23 Transportation or State Public Works Division of the Department of
24 Administration that uses the property may request the Chief of the
25 Budget Division of the Department of Administration to deem
26 information regarding the property confidential for the purpose of
27 maintaining public safety.

28 6. If the Chief of the Budget Division deems information
29 regarding property to be confidential pursuant to subsection 5, the
30 information concerning the property must be kept confidential and is
31 not a public book or record within the meaning of NRS 239.010.
32 The Chief of the Budget Division must inform the Administrator
33 that the information is confidential and that the information must not
34 be posted on an Internet website maintained by the State pursuant to
35 subsection 4.

36 7. An owner of a building who enters into a contract with a
37 state agency for occupancy in the building:

38 (a) If the contract is entered into before May 28, 2009, may
39 comply with the program; and

40 (b) If the contract is entered into on or after May 28, 2009, shall,
41 to the extent practicable as determined by the Administrator, comply
42 with the program.

43 ➤ If an owner chooses not to comply with the program pursuant to
44 paragraph (a), a state or local agency shall not, after May 28, 2009,
45 enter into a contract for occupancy of a building owned by the



* A B 1 2 5 R 2 *

1 owner, except that the Administrator may authorize a state or local
2 agency to enter into a contract for the occupancy of a building
3 owned by an owner who does not comply with the program if the
4 Administrator determines that it is impracticable for the owner to
5 comply with the program.

6 8. As used in this section, “program” means the program
7 established pursuant to NRS 701.218.

8 **Sec. 9.** This act becomes effective on July 1, 2013.

