

Amendment No. 531

Assembly Amendment to Assembly Bill No. 125

(BDR 26-30)

Proposed by: Assemblyman Daly**Amendment Box:** Consistent with Amendment No. 494.**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/> _____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/> _____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/> _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

HAC/MSN



Date: 4/20/2013

A.B. No. 125—Revises provisions governing the lease of state lands. (BDR 26-30)



ASSEMBLY BILL NO. 125--ASSEMBLYWOMAN KIRKPATRICK

FEBRUARY 14, 2013

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Revises provisions governing the lease of state lands. (BDR 26-30)

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 state lands; ~~authorizing, under certain circumstances,~~ ***exempting*** the lease of state lands ~~for less than market value for purposes of economic development;~~ ***from appraisal and certain procedural requirements; authorizing the discounted lease of state lands to certain businesses seeking to locate or expand in this 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, ~~and sets forth the requirements for the applications for and the terms of such leases.~~ (Chapter 321 of NRS) **Section 3** of this bill authorizes the ~~State Land Registrar to~~ lease of state land ~~for purposes of economic development without first offering the state land to the public and to a business seeking to locate or expand in this State~~ for less than ~~its~~ 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, ~~taking into consideration the amount the lessee is able to pay.~~

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, 2 and 4** of this bill except from these requirements the lease of state land pursuant to **section 3** ~~for purposes of economic development.~~

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

Section 1. 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 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 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

1 local governmental entity, except for a lease which is part of a contract entered into
2 pursuant to chapter 333 of NRS and except for an agreement entered into pursuant
3 to the provisions of NRS 277.080 to 277.170, inclusive, or a lease of residential
4 property with a term of 1 year or less, after April 1, 1957, all sales or leases of any
5 lands that the Division is required to hold pursuant to NRS 321.001, including lands
6 subject to contracts of sale that have been forfeited, are governed by the provisions
7 of this section.

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

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

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

26 5. The notice must contain:

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

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

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

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

34 6. At the time and place fixed in the notice published pursuant to subsection
35 4, all sealed bids which have been received must, in public session, be opened,
36 examined and declared by the State Land Registrar. Of the proposals submitted
37 which conform to all terms and conditions specified in the notice published
38 pursuant to subsection 4 and which are made by responsible bidders, the bid which
39 is the highest must be finally accepted, unless a higher oral offer is accepted or the
40 State Land Registrar rejects all bids and offers. Before finally accepting any written
41 bid, the State Land Registrar shall call for oral offers. If, upon the call for oral
42 offers, any responsible person offers to buy or lease the land upon the terms and
43 conditions specified in the notice, for a price exceeding by at least 5 percent the
44 highest written bid, then the highest oral offer which is made by a responsible
45 person must be finally accepted.

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

49 (a) Contrary to the public interest.

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

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

52 (d) On lands which are requested by the State of Nevada or any department,
53 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 in the notice of sale, the State Land Registrar shall convey title by quitclaim or cause a patent to be issued as provided in NRS 321.320 and 321.330.

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

10. The State Land Registrar may require any person requesting that state land 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 State Land Registrar in acting upon the application, including the costs of publication and the expenses of appraisal. This deposit must be refunded whenever the person making the deposit is not the successful bidder. The costs of acting upon the application, including the costs of publication and the expenses of appraisal, must be borne by the successful bidder.

11. If land 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 land, the State Land Registrar may offer the land 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 land, the State Land Registrar must, as applicable, obtain a new appraisal or new appraisals of the land pursuant to the provisions of NRS 321.007 before offering the land for sale or lease a second time. If land 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 land, the State Land Registrar may list the land for sale or lease at the appraised value with a licensed real estate broker, provided that the broker or a person related to the broker within the first degree of consanguinity or affinity does not have an interest in the land or an adjoining property.

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

1. The Administrator of the Division of State Lands of the State Department of Conservation and Natural Resources, as ex officio State Land Registrar, may lease state land ~~for the purpose of economic development.~~

~~(a) Without first offering the state land to the public; and~~

~~(b) For less than fair market value of the state land.~~

~~2. Before the State Land Registrar may lease state land pursuant to this section, the State Land Registrar must make a finding that it is in the best interest of the public to lease the state land:~~

~~(a) Without offering the state land to the public; and~~

~~(b) For less than fair market value of the state land.~~

~~3. To lease, pursuant to NRS 322.060 for less than the fair market value of the state land for the first year of the lease, including, without limitation, without the payment of rent for the first year of the lease, to a person who intends to locate or expand a business in this State if, except as otherwise provided in subsection 5, the business meets the requirements of subsection 4.~~

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 ~~the~~

(c) The Executive Director of the Office of Economic Development must jointly approve the lease and establish the amount of rent to be received for the state land. The State Land Registrar and the Executive Director shall render a decision on an application to lease state land pursuant to this section not later than 60 days after the application is filed with the State Land Registrar.

4. In determining the amount of rent for the lease of state land pursuant to this section, the State Land Registrar and the Executive Director shall give consideration to the amount the lessee is able to pay.

5. The State Land Registrar may waive any fee for the consideration of an application submitted pursuant to this section.

6. As used in this section, "economic development" means:

(a) The establishment of new commercial enterprises or facilities within the State;

(b) The support, retention or expansion of existing commercial enterprises or facilities within the State;

(c) The establishment, retention or expansion of public, quasi public or other facilities or operations within the State;

(d) The establishment of residential housing needed to support the establishment of new commercial enterprises or facilities or the expansion of existing commercial enterprises or facilities within the State; or

(e) Any combination of the activities described in paragraphs (a) to (d), inclusive,

to create and retain opportunities of employment for the residents of this State.

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:

(1) 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

1 (II) The cost to the business for the benefits the business provides to
2 its employees in this State will meet the minimum requirements for benefits
3 established by the Office by regulation pursuant to subsection 8 of NRS 360.750.

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

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

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

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

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

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

22 (e) If the business is an existing business, the business meets at least two of
23 the following requirements:

24 (1) The business will increase the number of employees on its payroll by
25 10 percent more than it employed in the immediately preceding fiscal year or by
26 six employees, whichever is greater.

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

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

34 (II) The Department of Taxation, if the business is centrally assessed.

35 (3) The average hourly wage that will be paid by the existing business to
36 its new employees in this State is at least the amount of the average hourly wage
37 required to be paid by businesses pursuant to subparagraph (2) of either
38 paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable,
39 and;

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

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

46 (f) In lieu of meeting the requirements of paragraph (c), (d) or (e), if the
47 business furthers the development and refinement of intellectual property, a
48 patent or a copyright into a commercial product, the business meets at least two
49 of the following requirements:

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

52 (2) Establishing the business will require the business to make a capital
53 investment of at least \$500,000 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 the amount of the average hourly wage required to be paid by businesses pursuant to subparagraph (2) of either paragraph (a) or (b) of subsection 2 of NRS 361.0687, whichever is applicable, 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 with minimum requirements established by the Office by regulation pursuant to subsection 8 of NRS 360.750.

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

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

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

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

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

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

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

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

Sec. 6. This act becomes effective on July 1, 2013.