

SENATE BILL NO. 397—SENATOR CEGAVSKE

MARCH 18, 2013

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing eminent domain.
(BDR 3-886)

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 eminent domain; revising provisions governing eminent domain; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the use of eminent domain to acquire real property for certain public uses. (NRS 37.010) **Section 1** of this bill authorizes the additional public use of vocational training, employment and social recreation services for persons with intellectual disabilities. **Section 2** of this bill authorizes certain entities that have acquired property by or under the threat of eminent domain proceedings to dispose of such property by exchanging the property for property of a public agency and requires the public agency that receives such property to use the property for a public use.

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

Section 1. NRS 37.010 is hereby amended to read as follows:
37.010 1. Subject to the provisions of this chapter and the limitations in subsections 2 and 3, the right of eminent domain may be exercised in behalf of the following public uses:
(a) Federal activities. All public purposes authorized by the Government of the United States.
(b) State activities. Public buildings and grounds for the use of the State, the Nevada System of Higher Education and all other public purposes authorized by the Legislature.



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(c) County, city, town and school district activities. Public buildings and grounds for the use of any county, incorporated city or town, or school district, reservoirs, water rights, canals, aqueducts, flumes, ditches or pipes for conducting water for the use of the inhabitants of any county, incorporated city or town, for draining any county, incorporated city or town, for raising the banks of streams, removing obstructions therefrom, and widening, deepening or straightening their channels, for roads, streets and alleys, and all other public purposes for the benefit of any county, incorporated city or town, or the inhabitants thereof.

(d) Bridges, toll roads, railroads, street railways and similar uses. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation.

(e) Ditches, canals, aqueducts for smelting, domestic uses, irrigation and reclamation. Reservoirs, dams, water gates, canals, ditches, flumes, tunnels, aqueducts and pipes for supplying persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic and other uses, for irrigating purposes, for draining and reclaiming lands, or for floating logs and lumber on streams not navigable.

(f) Byroads. Byroads leading from highways to residences and farms.

(g) Public utilities. Lines for telegraph, telephone, electric light and electric power and sites for plants for electric light and power.

(h) Sewerage. Sewerage of any city, town, settlement of not less than 10 families or any public building belonging to the State or college or university.

(i) Water for generation and transmission of electricity. Canals, reservoirs, dams, ditches, flumes, aqueducts and pipes for supplying and storing water for the operation of machinery to generate and transmit electricity for power, light or heat.

(j) Cemeteries, public parks. Cemeteries or public parks.

(k) Pipelines for petroleum products, natural gas. Pipelines for the transportation of crude petroleum, petroleum products or natural gas, whether interstate or intrastate.

(l) Aviation. Airports, facilities for air navigation and aerial rights-of-way.

(m) Monorails. Monorails and any other overhead or underground system used for public transportation.

(n) Video service providers. Video service providers that are authorized pursuant to chapter 711 of NRS to operate a video service network. The exercise of the power of eminent domain may



1 include the right to use the wires, conduits, cables or poles of any
2 public utility if:

3 (1) It creates no substantial detriment to the service provided
4 by the utility;

5 (2) It causes no irreparable injury to the utility; and

6 (3) The Public Utilities Commission of Nevada, after giving
7 notice and affording a hearing to all persons affected by the
8 proposed use of the wires, conduits, cables or poles, has found that it
9 is in the public interest.

10 (o) Redevelopment. The acquisition of property pursuant to
11 NRS 279.382 to 279.685, inclusive.

12 *(p) Vocational training, employment and social recreation*
13 *services for persons with intellectual disabilities. Facilities for the*
14 *provision of vocational training, employment and social recreation*
15 *services for persons with intellectual disabilities.*

16 2. Notwithstanding any other provision of law and except as
17 otherwise provided in this subsection, the public uses for which
18 private property may be taken by the exercise of eminent domain do
19 not include the direct or indirect transfer of any interest in the
20 property to another private person or entity. Property taken by the
21 exercise of eminent domain may be transferred to another private
22 person or entity in the following circumstances:

23 (a) The entity that took the property transfers the property to a
24 private person or entity and the private person or entity uses the
25 property primarily to benefit a public service, including, without
26 limitation, a utility, railroad, public transportation project, pipeline,
27 road, bridge, airport or facility that is owned by a governmental
28 entity.

29 (b) The entity that took the property leases the property to a
30 private person or entity that occupies an incidental part of an airport
31 or a facility that is owned by a governmental entity and, before
32 leasing the property:

33 (1) Uses its best efforts to notify the person from whom the
34 property was taken that the property will be leased to a private
35 person or entity that will occupy an incidental part of an airport or
36 facility that is owned by a governmental entity; and

37 (2) Provides the person from whom the property was taken
38 with an opportunity to bid or propose on any such lease.

39 (c) The entity that took the property:

40 (1) Took the property in order to acquire property that was
41 abandoned by the owner, abate an immediate threat to the safety of
42 the public or remediate hazardous waste; and

43 (2) Grants a right of first refusal to the person from whom
44 the property was taken that allows that person to reacquire the



1 property on the same terms and conditions that are offered to the
2 other private person or entity.

3 (d) The entity that took the property exchanges it for other
4 property acquired or being acquired by eminent domain or under the
5 threat of eminent domain for roadway or highway purposes, to
6 relocate public or private structures or to avoid payment of
7 excessive compensation or damages.

8 (e) The person from whom the property is taken consents to the
9 taking.

10 3. The entity that is taking property by the exercise of eminent
11 domain has the burden of proving that the taking is for a public use.

12 4. For the purposes of this section, an airport authority or any
13 public airport is not a private person or entity.

14 **Sec. 2.** NRS 37.260 is hereby amended to read as follows:

15 37.260 1. Except as otherwise provided in NRS 37.270, any
16 real property, interest therein or improvement thereon which has
17 been acquired in accordance with the provisions of this chapter or
18 purchased under the threat of eminent domain proceedings by an
19 association, commission, corporation, partnership or political
20 subdivision other than a county or incorporated city may be
21 disposed of as surplus by that entity only in accordance with the
22 provisions of this section.

23 2. The governing body of the entity desiring to dispose of the
24 property pursuant to this section must first adopt a resolution
25 declaring that the property is no longer required for the purposes for
26 which it was acquired or for other reasonable public use ~~it~~ *by the*
27 *entity.*

28 3. The property, interest or improvement disposed of pursuant
29 to this section must be ~~is sold~~:

30 *(a) Exchanged for other property of a public agency and must*
31 *be used by that public agency for a public use; or*

32 *(b) Sold* by the entity to the highest bidder bidding for the
33 property, either at public auction or by sealed bids, the notice and
34 terms of which must be published in a newspaper of general
35 circulation in the county where the property is situated at least once
36 not less than 15 nor more than 45 days before the sale. When, in the
37 opinion of the governing body of the entity, the property cannot be
38 sold by means of public auction or sealed bids without working an
39 undue hardship upon a property owner either as a result of a
40 severance of that owner's property or a denial of access to a public
41 street or highway, the governing body may first offer the property to
42 that owner at a price determined by the governing body to be in the
43 best interest of the corporation, partnership, association, commission
44 or political subdivision.



1 4. If property is disposed of pursuant to *paragraph (b) of*
2 *subsection 3 of* this section, it is conclusively presumed in favor of
3 any purchaser for value and without notice of any such real
4 property, interest therein or improvement thereon conveyed
5 pursuant to *paragraph (b) of subsection 3 of* this section that the
6 entity disposing of it acted within its lawful authority in acquiring
7 and disposing of the property, and that the officers thereof acted
8 within their lawful authority in executing any conveyance vesting
9 title in the purchaser. All such conveyances must be quitclaim in
10 nature and must not carry any warranty of title.

11 **Sec. 3.** This act becomes effective on July 1, 2013.

