

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Eighth Session
March 18, 2015**

The Committee on Government Affairs was called to order by Chairman John Ellison at 8:31 a.m. on Wednesday, March 18, 2015, in Room 4100 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website: www.leg.state.nv.us/App/NELIS/REL/78th2015. In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblyman John Ellison, Chairman
Assemblyman John Moore, Vice Chairman
Assemblyman Richard Carrillo
Assemblywoman Victoria A. Dooling
Assemblywoman Amber Joiner
Assemblyman Harvey J. Munford
Assemblywoman Dina Neal
Assemblywoman Shelly M. Shelton
Assemblyman Stephen H. Silberkraus
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart
Assemblyman Glenn E. Trowbridge
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

Assemblyman Edgar Flores (excused)

GUEST LEGISLATORS PRESENT:

Assemblyman Ira Hansen, Assembly District No. 32



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Aubrie Bates, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Jerrie Tipton, County Commissioner, Mineral County
Charles Donohue, Administrator, Division of State Lands, and State Land Registrar, Department of Conservation and Natural Resources
Nancy J. Boland, County Commissioner, Esmeralda County
Jeff Fontaine, Executive Director, Nevada Association of Counties
Lieutenant Colonel Clayton Chappell, Construction and Facilities Management Officer, Nevada Army National Guard, Office of the Military

Chairman Ellison:

[The meeting was called to order and rules and protocol were explained.] Today we will hear one bill. We want to have a work session on Monday for four bills. We might squeeze a few more bills into that work session so we can get them onto the floor. We will now open the hearing on Assembly Bill 202.

Assembly Bill 202: Makes various changes relating to the acquisition of land by a county. (BDR 20-570)

Assemblyman Ira Hansen, Assembly District No. 32:

I represent Assembly District 32, which is 38,000 square miles of the state of Nevada and includes seven counties. I am here to present Assembly Bill 202. Why is A.B. 202 an important bill? As many of you know, more than 85 percent of the land in Nevada is owned by the federal government, mostly by the Bureau of Land Management, Department of the Interior (BLM) and the U.S. Forest Service. In some counties, more than 90 percent of the land is owned by the federal government. The government's ownership of the land severely limits economic development and is harmful to many of our smaller counties. Unfortunately, there are very rare opportunities where a county can acquire land from the federal government.

The purpose of A.B. 202 is to provide additional opportunities when available for counties to acquire land from the federal government. The land can in turn be used for economic development and other purposes. Assembly Bill 202 gives counties the ability to apply for and accept grants of rights of way,

permits, leases, and patents over, upon, under, or through any land or interest in land owned by the federal government.

Currently, under *Nevada Revised Statutes* (NRS) 244.277, a county can only accept or apply for land under three federal laws: one, the Federal Land Policy and Management Act; two, the Recreation and Public Purposes Act; and three, the Southern Nevada Public Land Management Act. This bill removes the limitation of land acts by which counties can apply for land from the federal government. Under section 1, we strike out the existing language and authorize counties to apply for and accept grants of rights-of-way, permits, and leases owned by the United States pursuant to any applicable federal law or regulation, not just the three listed in statute. Sections 2 and 3 contain transitory language enabling Mineral County to acquire roughly two and a half acres from the state of Nevada. Under provisions of the bill, Mineral County will pay for any costs associated with the transfer. That concludes my brief overview of the bill. I would like to turn the rest of the presentation over to representatives from Esmeralda County and Mineral County. They can provide additional details on the bill and the proposed land set to be transferred in Mineral County. Commissioner Nancy Boland from Esmeralda County and Commissioner Jerrie Tipton from Mineral County are with us today.

Chairman Ellison:

They are very good friends of mine. It is good to see you both. There are a few questions from the Committee before we continue with the presentation. Does this bill only cover land transfers, or will it also allow for the purchase of lands?

Assemblyman Hansen:

The bill will cover both of those. I will let Commissioner Tipton explain the genesis of the bill. We had the opportunity to acquire a couple acres of land in Mineral County. However, it turns out that they would have to go through the state Legislature in order to do that. That is why we are here now.

Assemblywoman Spiegel:

Is the land mentioned in section 3 of the bill owned by the state? Why would there be no consideration to the state for then transferring that land from the state to Mineral County?

Assemblyman Hansen:

The state offered the land to Mineral County for \$1. It is a liability to the state at the moment, as I understand. The state offered it to Mineral County to get it off of the books because it is losing money for the state.

Jerrie Tipton, County Commissioner, Mineral County:

The piece of property we are talking about was the old National Guard armory in Hawthorne, Nevada, which is in Mineral County. Some years back, the National Guard pulled out, and Mineral County took over the building. We have probably put \$600,000 to \$700,000 into the building. For a number of years it was our juvenile protection facility for the 5th Judicial District, which covered Nye, Esmeralda, and Mineral Counties. It was where we housed the juveniles in that district when they needed to go somewhere. They are no longer held there. Currently, it still holds our Juvenile Court Master and Juvenile Protection offices. It also houses offices for the Parks and Recreation Department. We are getting ready to institute the Boys and Girls Club in the next couple of years, and it would be an ideal location for that.

As Assemblyman Hansen said, it is no longer an asset to the state because of the cost of maintenance. The state has no use for it, so it was offered to Mineral County. It would have come in under a Mineral County bill draft resolution except it happened after the deadline. I asked Assemblyman Hansen if this was something we could do and he said we could. That is Mineral County's portion.

Chairman Ellison:

Is there anything else you would like to add or would you like to continue with the presentation of the bill?

Assemblyman Hansen:

I actually do not have much to present on the bill.

Chairman Ellison:

There is very little.

Assemblyman Hansen:

It is about as straightforward as you can get, Mr. Chairman.

Chairman Ellison:

I am happy to see this bill. It is a good bill. I was hoping to get a little deeper into the details.

Assemblyman Trowbridge:

I have lived under these types of conditions for many years dealing with the BLM to acquire land as I was trying to build a park or a school. My heart goes out to you for the aggravation you have had to suffer through. I do not think you could have found a better advocate than Assemblyman Hansen to sponsor this bill. He gives it additional credibility.

Assemblyman Hansen:

Assemblyman Trowbridge, is it correct that around 50 of the schools in Clark County are currently on land that is still leased by the Bureau of Land Management?

Assemblyman Trowbridge:

I am aware of many parcels of land that exist in Clark County that were acquired under the transfers of land from BLM that have been developed to build schools, parks, or community centers. The BLM still maintains control because they do not want to release the land even though they can come out any day and see that the land is designated for public use. They drag their feet on releasing the patent. They could come to the site to see that it is a park; it has not been sold off for commercial development. They are a slow-responding federal organization, which causes a lot of heartburn, heartache, wasted staff and, taxpayer dollars.

Assemblyman Hansen:

I agree.

Assemblyman Stewart:

The only new language that I see in the bill is dealing with federal land. Is that correct? Do you already have the right to acquire state lands?

Jerrie Tipton:

No, we do not. Part of the reason we wrote the bill this way is state law did not allow Mineral County to be gifted or to buy land from the state of Nevada for less than market value. We are not going to use the land for anything other than a county facility or building. We have been maintaining it for 15 years or more. Currently, we could not get that piece of property without paying full market value. For those of you who are not familiar with Mineral County, it is one of the counties in which only 3.6 percent of the land is privately held. Half of that land has taxable infrastructure on it. I am either blessed or cursed with a 520 square-mile Indian reservation, a 280 square-mile military facility, and the rest belonging to the BLM or Forest Service. The BLM owns the majority of the land. We have no tax base. There is no way we can purchase land from the state of Nevada for any more than \$1. Between 47 and 49 percent of Mineral County's revenues are from consolidated tax. Now, you tell me where we sit. That is just the reality. There is no way we could put our hands on it. It is a liability to the state. We will go ahead and continue to maintain it and use it as a county building.

Assemblyman Stewart:

Are sections 2 and 3 new language giving you the authority to receive the land?

Jerrie Tipton:

As far as I am aware, sections 2 and 3 are new language.

Assemblyman Stewart:

It does not appear to be in the correct format for new language in the bill.

Jered McDonald, Committee Policy Analyst:

That language is transitory. It will not necessarily go into statute once the bill is passed. It will just allow them to make the transfer.

Assemblyman Stewart:

Why is it just being limited to Mineral County? Why do we not allow this for all of the counties?

Chairman Ellison:

We will ask the representative of the Division of State Lands to answer some of these questions.

Assemblywoman Dooling:

The cost of the land for Mineral County will be just \$1. Is that correct?

Jerrie Tipton:

It will be a transfer and whatever the costs of the transfer of the title will be borne by Mineral County.

Assemblywoman Dooling:

What might those costs include?

Chairman Ellison:

That includes surveying and any other necessary services.

Jerrie Tipton:

That is correct. The state will not be out any money to do this transfer. The county will cover those costs.

Chairman Ellison:

Are there any other questions? [There were none.] We would like to have the representative for the Division of State Lands come up. There must be a way we can get deeper into this. We may be able to add language that will open the door for other transfers in the future.

Charles Donohue, Administrator, Division of State Lands, and State Land Registrar, Department of Conservation and Natural Resources:

With me here today is Lieutenant Colonel Chappell with the Nevada Army National Guard. I am here in support of Assembly Bill 202, and more specifically sections 2 and 3 which authorize me, as the State Land Registrar, to transfer certain lands in Mineral County and associated interests to the county. [Mr. Donohue continued to read from prepared testimony ([Exhibit C](#)).]

Chairman Ellison:

Is there any language we can add to this bill to help ease the transfer process?

Charles Donohue:

According to NRS 321.125 I have the authority to dispose of real property to local governments.

Chairman Ellison:

Okay, the counties would like to have all of the land in the state back.

Charles Donohue:

Unfortunately, we do not own the whole state, Mr. Chairman. That statute discusses fair market value and appraisals. It does not do the state any good to expend state funds to get an appraisal which determines the fair market value when Mineral County cannot afford to pay fair market value for the property. It is estimated to be anywhere from \$600,000 to \$800,000. As you have heard in previous testimony, the county has invested a significant amount of fiscal resources in the upkeep of that facility since the National Guard departed in 1990. The request to dispose of the property has been made to the state several times because the Guard is not present. In a recent site visit, I found that there is no evidence of the Guard even being there unless you know the façade of the structure and know that it looks like the Guard facilities in Elko and Winnemucca, Nevada. This seemed to be a reasonable solution while also addressing leases that are set up for certain periods of time and the consideration that the Guard would return. The Guard has made it clear that this facility no longer works for them.

Assemblyman Stewart:

This transfer would be at no cost to Mineral County, is that correct?

Charles Donohue:

We would transfer the land to Mineral County, and as the bill states, if there are any costs associated with that transfer, Mineral County will cover them. However, I cannot imagine that there would be any costs.

Assemblyman Stewart:

Should we add language to state that this would apply to any county if similar circumstances arise in the future?

Charles Donohue:

I would leave that decision up to this body given that there is an existing statute, NRS 321.125, which allows the state to dispose of lands to local governments.

Assemblyman Stewart:

Why do we need this specific reference to Mineral County if there is already statute applying to everyone?

Charles Donohue:

The reason is that Mineral County cannot afford to pay what would be fair market value. If Mineral County cannot afford to pay for the land, it does not make sense to expend state funds to appraise the land and determine the value for the land when no sale will occur.

Assemblyman Stewart:

Currently, there are only three federal laws that allow counties to acquire federal lands. Regarding the addition of the language in section 1 to expand to any federal law, are there other federal laws that might be used? Can you give examples of what those might be?

Charles Donohue:

I will defer to Nancy Boland to answer that question. She has specific comments regarding that and may be more prepared to answer that question than I am.

Nancy J. Boland, County Commissioner, Esmeralda County:

Assemblyman Stewart, this was my brainchild. Recently, Congressmen Dean Heller, Mark Amodei, and Steven Horsford had a package of bills that passed through the U.S. House of Representatives. Senator Heller incorporated them in an appropriation for the military. Among those bills, there are two that are not listed in the existing NRS. One involves Elko County for the Elko Motocross and Tribal Conveyance Act. Some land is going to be conveyed to Elko County for recreational purposes under that bill. Another bill that involves a county conveyance is the Las Vegas Valley Public Land and Tule Springs Fossil Beds National Monument Act. Clark County is slated to receive land for the Ivanpah Valley Airport as well as land for a Nellis off-road vehicle recreation area. I know there are other counties involved. Douglas County is currently working on a bill specifically for their county.

The reason this came to my attention is that BLM is trying to work with us to purchase an area that is in trespass in my county so we can fix the title to that. None of the statutes are contained within the existing NRS. I thought it would be better to say that if it is legal on the federal level, it should be legal at the state level. Things could change over time.

Assemblyman Stewart:

Right now we have upwards of 80 percent federally owned land. Would this bill lower the percentage of federally owned land?

Chairman Ellison:

That will be the day. It takes years to get federal lands. It puts cities through hardships. If it was not for public lands transfers, some of these counties would be in major danger. We have to fix the problem. If there is anything we can do to make this better, we will put it into the bill.

Assemblywoman Joiner:

Section 1 of the bill states, "The board of county commissioners may apply for and accept: 1. Grants of rights-of-way, permits, leases..." under those federal laws. Is it not the case that those federal laws would still apply if you are applying to the federal government for permits and leases? Although those new laws have passed, I am not sure that the change in statute makes sense to me because there would still be a permitting process. There are a lot of federal laws for granting land and raising monuments.

Nancy Boland:

You may be confused. The federal laws that are listed do allow for that. There are other parts of the Federal Land Policy and Management Act that allow sale-type transactions. However, Title 5 of that act only allows for rights-of-way. All of the laws currently listed do allow purchases, but because there is Dillon's Rule, a county would be restricted in the ability to accept land. Conceivably, if a bill under another name allowed it at the federal level, they could be restricted at the state level. The intention of this was to say that whatever bill the federal government accepts would allow the county to be able to do all of those functions. I was only trying to put some flexibility in there. It really would not change anything at the federal level.

Assemblywoman Joiner:

My second question is about section 3 of the bill. Are there other examples of localities being granted land like this in a bill at the state level because the locality cannot afford to buy the land, or would this be setting precedent? Is this the first of its kind, or is it done regularly? There are a lot of counties

and localities that cannot afford things, so I want to know what type of precedent this might be setting.

Charles Donohue:

I am not sure if that was the case when the state transferred Floyd Lamb State Park to Clark County. I do not know if there were any discussions of whether or not the county could afford it. I would have to think about any such examples and get back to you.

Assemblyman Trowbridge:

It was the City of Las Vegas that received Floyd Lamb State Park. They could afford it better than the state.

The bill you cited that requires appraisals relates to the disposal of excess state lands. Is that correct?

Charles Donohue:

Yes, that is correct. It relates to lands that the state no longer needs. This land assigned to the National Guard has been designated as nonperforming, no need.

Assemblyman Trowbridge:

It seems that NRS 321.125 could be revised to say that appraisals would not be required for direct transfers of lands from the state to a local agency. If that was changed, the transfer could happen without having to do something like this in the future. Maybe that is something that can be addressed in future bills. It makes sense to require appraisal if the land will be sold, but if it is going to be transferred to a locality, it could happen without consideration.

Charles Donohue:

If you look at NRS Chapter 321, there are requirements for dual appraisals if I were to dispose of land or put it up for auction. *Nevada Revised Statutes* 321.335 was changed to require two appraisals and other specifications regarding advertising and auctioning. It was clear at that time that state lands would be acquired for the fair market value at minimum. I think all of that would need to be reviewed and addressed with your suggestion.

Assemblyman Trowbridge:

I am fully supportive of selling state lands at fair market value if the intention is in fact for the land to be sold. However, if the land is being transferred to a local government entity, there should be a shortcut to the process. You are right, it is very complex and must be reviewed.

Charles Donohue:

I think it really comes down to whether or not a local jurisdiction can afford to buy the land. We have disposed of lands to local governments based on an appraised fair market value when those lands have no longer been needed for state activities and the local jurisdictions have required the lands. If the intent would be to just transfer those lands without any compensation in the future, I would suggest that the state should be compensated for the disposal of the lands unless there are unique circumstances as discussed here.

I think this is a very unique situation where the Guard has not been present at the facility. The local jurisdiction, Mineral County, has invested a significant amount of funding in excess of \$600,000. That is getting really close to what we think the value of the property is. I think there are unique situations where it may warrant something like this.

Chairman Ellison:

Another problem is that the state owns very little land compared to BLM. We are pretty limited as far as what the state does have to offer. Are there any other questions from the Committee? [There were none.] Will anyone else wishing to testify in favor of the bill please come forward?

Jeff Fontaine, Executive Director, Nevada Association of Counties:

The Nevada Association of Counties is in support of Assembly Bill 202. We think this is certainly a great opportunity for both Mineral County and Esmeralda County, as well as the rest of the counties. I appreciate many of the comments that have been made regarding the difficulties our counties have in acquiring land for their purposes.

I would like to comment briefly on the issue that has arisen about the consideration of the state. There are several ways to look at this issue, and there may be some parallels, with the way the Department of Transportation (NDOT) deals with surplus properties. There is a difference between transferring or giving land to a public entity for public purposes and giving it to a public entity for commercial purposes where the public entity could sell the land for development. I think we are talking about, and we would like to have considered, the idea of transferring state lands to a county if it is being used for a public purpose. I am not sure there is a lot that needs to be gained as far as going through the process that has been talked about including the appraisal for fair market value, et cetera. I realize that in many cases, these state lands are assets to the state, but in this particular case, it is not. The idea that the state could transfer certain properties to public entities—counties in my case—without consideration to the state as long as the county agrees to continue to use it for a public purpose might be something to consider.

Chairman Ellison:

I agree with you, Mr. Fontaine. We have looked at every possibility to help these counties. I appreciate all of the hard work you have done.

Assemblywoman Neal:

I want to see the document that allows us the ability to do that for public purposes. I was looking for another statute that spoke to this issue or federal language that already speaks to the issue of not having consideration. One of the elements of a contract is consideration, and it is one of the elements that can make a contract fail. Consideration has to exist in some form, even if it is just \$1. What is the caveat or the exception to the rule for governments entering into contracts for public lands? Where has the exception for consideration been defined?

Jeff Fontaine:

I believe there were statutes regarding the transfer of surplus property, specifically from NDOT to public entities for a public purpose. I recall that those particular decisions to allow those transfers were made by the Board of Directors with the Department of Transportation. There were certain interlocal agreements to address that very issue. I will try to find those statutes and provide them for the Committee. That may be one place we can look for a model.

Assemblyman Stewart:

Mr. Fontaine, would it be advantageous to the counties if there were some sort of amendment to leave it to the discretion of the state to transfer the land without cost if similar situations were to arise? Would this be helpful to you in the future so we would not have to continue to come back to do this piece by piece?

Jeff Fontaine:

Assemblyman Stewart, the short answer is, yes. I think anything you would be willing to do and can do to make the process easier and more efficient is something we would support.

Chairman Ellison:

Are there any other questions from the Committee? [There were none.] Is there anyone else wishing to testify in favor of A.B. 202?

**Lieutenant Colonel Clayton Chappell, Construction and Facilities Management
Officer, Nevada Army National Guard, Office of the Military:**

I would like to reiterate that we support A.B. 202 and the transfer of this property which was formerly used as an armory for the Nevada Army National Guard to Mineral County.

Chairman Ellison:

Are there any questions? [There were none.] Is there anyone else wishing to testify in favor of A.B. 202? [There was no one.] Is anyone wishing to testify in opposition to A.B. 202? [There was no one.] Is anyone wishing to testify as neutral to A.B. 202? [There was no one.] Mr. Hansen, please provide a closing comment.

Assemblyman Hansen:

Commissioner Tipton would like to make a few closing comments.

Jerrie Tipton:

If it would make this bill easier, Mineral County has no problem with receiving deed restrictions from the state to ensure that this property will continue to be used for a public purpose. It will be. Mineral County has no desire to sell the building or anything else. We have been maintaining it for 15 or more years, and we will keep doing that. In answer to Assemblyman Stewart's comments, if it could be put into existing statute that a county can be gifted land or sold land at a low value with deed restrictions, we do not have a problem with that either.

Chairman Ellison:

I think the more we cloud the issue, the worse it gets.

Assemblyman Stewart:

Assemblyman Hansen, would you be agreeable to an amendment as I had mentioned before such that the discretion would be left to the state if another situation similar to this were to arise?

Assemblyman Hansen:

I think that is an excellent suggestion so that we do not have to repeat this cycle every few years whenever there is even a minor land transfer. This is an issue that needs to be addressed. Mr. Chairman, I would be happy to work with your legal counsel to draft an amendment to address Assemblyman Stewart's concerns.

Chairman Ellison:

I support that. I think it is a great idea. Anything we can do to help make these processes easier I would support. Are there any other questions from the Committee?

Assemblywoman Spiegel:

I agree that it would be good to make the language more flexible to cover future situations. I also like the idea that if there is no consideration there would be deed restrictions to ensure that the land is kept for public use.

Chairman Ellison:

I guess no one liked my comments about all state lands going back to the counties, so I will not do that.

Assemblyman Hansen:

That is an amendment we may have to discuss more, Mr. Chairman.

Chairman Ellison:

Is there any more discussion from the Committee? [There was none.] We want to get this bill to a work session soon. We will close the hearing on A. B. 202. Is there anyone here for public comment? [There was no one.] This meeting of the Assembly Committee on Government is now adjourned [at 9:15 a.m.].

[A press release ([Exhibit D](#)) regarding public land bills in Congress was submitted by Senator Dean Heller but was not mentioned.]

RESPECTFULLY SUBMITTED:

Aubrie Bates
Committee Secretary

APPROVED BY:

Assemblyman John Ellison, Chairman

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: March 18, 2015

Time of Meeting: 8:31 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
A.B. 202	C	Charles Donohue, Division of State Lands	Prepared Testimony
A.B. 202	D	Senator Dean Heller	Press Release