

ASSEMBLY BILL NO. 71—COMMITTEE ON NATURAL RESOURCES

(ON BEHALF OF THE DIVISION OF NATURAL
HERITAGE OF THE STATE DEPARTMENT
OF CONSERVATION AND NATURAL RESOURCES)

PREFILED NOVEMBER 18, 2020

Referred to Committee on Natural Resources

SUMMARY—Revises provisions relating to certain information maintained by the Division of Natural Heritage of the State Department of Conservation and Natural Resources. (BDR 18-313)

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 conservation; providing, with certain exceptions, that certain information related to a rare plant or animal species or ecological community that is included in the data systems maintained by the Division of Natural Heritage of the State Department of Conservation and Natural Resources is confidential; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law requires the Division of Natural Heritage of the State Department of Conservation and Natural Resources to maintain data systems related to the location, biology and conservation status of plants and animal species and ecosystems. (NRS 232.1369) **Section 1** of this bill provides, with certain exceptions, that the specific location of a rare plant or animal species or ecological community that is included in the Division's data systems is confidential. **Section 1** authorizes, under certain circumstances, the Administrator of the Division or his or her designee to release this confidential information to a person upon request. **Section 1** further requires the Administrator or his or her designee to release this confidential information to certain persons who enter into a written agreement which includes a provision that requires the person to maintain the confidentiality of the information. **Section 1** also requires the Administrator or his or her designee to make a reasonable effort to notify an owner of private property if the Administrator or designee releases any confidential information related to the



15 specific location of a rare plant or animal species or ecological community which is
16 located on the owner's property.

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

1 **Section 1.** NRS 232.1369 is hereby amended to read as
2 follows:

3 232.1369 1. The Division of Natural Heritage shall:

4 (a) Provide expertise in the areas of zoology, botany and
5 community ecology, including the study of wetland ecosystems; and

6 (b) Maintain data systems related to the location, biology
7 and conservation status of plant and animal species and ecosystems.

8 2. *Except as otherwise provided in this section, the specific*
9 *location of a rare plant or animal species or ecological community*
10 *that is included in the data systems maintained by the Division*
11 *pursuant to subsection 1 is confidential.*

12 3. *Except as otherwise provided in subsection 4, the*
13 *Administrator or his or her designee may release information*
14 *declared confidential pursuant to subsection 2 upon request to any*
15 *person, including, without limitation, an owner of property on*
16 *which a rare plant or animal species occurs or on which a*
17 *sensitive ecological community is located, if:*

18 (a) *The release of the information is not otherwise prohibited*
19 *by law;*

20 (b) *The release of the information is not restricted by the*
21 *original provider of the information; and*

22 (c) *The Administrator or his or her designee determines that*
23 *the request is:*

24 (1) *Related to conservation, environmental review,*
25 *education, land management, scientific research or a similar*
26 *purpose;*

27 (2) *Limited to the release of information necessary to*
28 *achieve the purpose of the request; and*

29 (3) *Unlikely to result in harm to a rare plant or animal*
30 *species or ecological community.*

31 4. *The Administrator or his or her designee shall release*
32 *information declared confidential pursuant to subsection 2 upon*
33 *request to a person who is engaged in conservation, environmental*
34 *review or scientific research and enters into a written agreement*
35 *with the Administrator or his or her designee which includes a*
36 *provision that requires the person to maintain the confidentiality*
37 *of the information to the extent necessary to protect the rare plant*
38 *or animal species or ecological community.*



5. *The provisions of chapter 239 of NRS apply to the release of any information that is authorized or required pursuant to this section.*

6. *The Administrator or his or her designee shall make a reasonable effort to notify an owner of private property if the Administrator or designee releases any confidential information related to the specific location of a rare plant or animal species or ecological community which is located on the owner's property.*

7. The Administrator may adopt any regulations necessary to carry out the provisions of this section.

8. *As used in this section, "rare plant or animal species or ecological community" includes, without limitation, any species, subspecies or ecological community:*

(a) *Declared as threatened or endangered or designated as a candidate for listing as threatened or endangered pursuant to the federal Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 et seq.;*

(b) *Designated as sensitive by the United States Bureau of Land Management or the United States Forest Service;*

(c) *Classified as protected, sensitive, threatened or endangered by the Board of Wildlife Commissioners pursuant to NRS 501.110;*

(d) *Protected under the provisions of chapter 527 of NRS, including, without limitation, Christmas trees, cacti and yucca protected pursuant to NRS 527.060 to 527.120, inclusive, and any species listed as a fully protected species of native flora pursuant to NRS 527.270; or*

(e) *Considered rare or at risk of extinction by the Division of Natural Heritage.*

Sec. 2. NRS 239.010 is hereby amended to read as follows:

239.010 1. Except as otherwise provided in this section and NRS 1.4683, 1.4687, 1A.110, 3.2203, 41.071, 49.095, 49.293, 62D.420, 62D.440, 62E.516, 62E.620, 62H.025, 62H.030, 62H.170, 62H.220, 62H.320, 75A.100, 75A.150, 76.160, 78.152, 80.113, 81.850, 82.183, 86.246, 86.54615, 87.515, 87.5413, 87A.200, 87A.580, 87A.640, 88.3355, 88.5927, 88.6067, 88A.345, 88A.7345, 89.045, 89.251, 90.730, 91.160, 116.757, 116A.270, 116B.880, 118B.026, 119.260, 119.265, 119.267, 119.280, 119A.280, 119A.653, 119A.677, 119B.370, 119B.382, 120A.690, 125.130, 125B.140, 126.141, 126.161, 126.163, 126.730, 127.007, 127.057, 127.130, 127.140, 127.2817, 128.090, 130.312, 130.712, 136.050, 159.044, 159A.044, 172.075, 172.245, 176.01249, 176.015, 176.0625, 176.09129, 176.156, 176A.630, 178.39801, 178.4715, 178.5691, 179.495, 179A.070, 179A.165, 179D.160, 200.3771, 200.3772, 200.5095, 200.604, 202.3662, 205.4651, 209.392, 209.3923, 209.3925, 209.419, 209.429, 209.521, 211A.140,



1 213.010, 213.040, 213.095, 213.131, 217.105, 217.110, 217.464,
2 217.475, 218A.350, 218E.625, 218F.150, 218G.130, 218G.240,
3 218G.350, 226.300, 228.270, 228.450, 228.495, 228.570, 231.069,
4 231.1473, **232.1369**, 233.190, 237.300, 239.0105, 239.0113,
5 239.014, 239B.030, 239B.040, 239B.050, 239C.140, 239C.210,
6 239C.230, 239C.250, 239C.270, 239C.420, 240.007, 241.020,
7 241.030, 241.039, 242.105, 244.264, 244.335, 247.540, 247.550,
8 247.560, 250.087, 250.130, 250.140, 250.150, 268.095, 268.0978,
9 268.490, 268.910, 269.174, 271A.105, 281.195, 281.805, 281A.350,
10 281A.680, 281A.685, 281A.750, 281A.755, 281A.780, 284.4068,
11 286.110, 286.118, 287.0438, 289.025, 289.080, 289.387, 289.830,
12 293.4855, 293.5002, 293.503, 293.504, 293.558, 293.5757, 293.870,
13 293.906, 293.908, 293.910, 293B.135, 293D.510, 331.110, 332.061,
14 332.351, 333.333, 333.335, 338.070, 338.1379, 338.1593, 338.1725,
15 338.1727, 348.420, 349.597, 349.775, 353.205, 353A.049,
16 353A.085, 353A.100, 353C.240, 360.240, 360.247, 360.255,
17 360.755, 361.044, 361.2242, 361.610, 365.138, 366.160, 368A.180,
18 370.257, 370.327, 372A.080, 378.290, 378.300, 379.0075, 379.008,
19 379.1495, 385A.830, 385B.100, 387.626, 387.631, 388.1455,
20 388.259, 388.501, 388.503, 388.513, 388.750, 388A.247, 388A.249,
21 391.033, 391.035, 391.0365, 391.120, 391.925, 392.029, 392.147,
22 392.264, 392.271, 392.315, 392.317, 392.325, 392.327, 392.335,
23 392.850, 393.045, 394.167, 394.16975, 394.1698, 394.447, 394.460,
24 394.465, 396.3295, 396.405, 396.525, 396.535, 396.9685,
25 398A.115, 408.3885, 408.3886, 408.3888, 408.5484, 412.153,
26 414.280, 416.070, 422.2749, 422.305, 422A.342, 422A.350,
27 425.400, 427A.1236, 427A.872, 432.028, 432.205, 432B.175,
28 432B.280, 432B.290, 432B.407, 432B.430, 432B.560, 432B.5902,
29 432C.140, 432C.150, 433.534, 433A.360, 437.145, 437.207,
30 439.4941, 439.840, 439.914, 439B.420, 439B.754, 439B.760,
31 440.170, 441A.195, 441A.220, 441A.230, 442.330, 442.395,
32 442.735, 442.774, 445A.665, 445B.570, 445B.7773, 447.345,
33 449.209, 449.245, 449.4315, 449A.112, 450.140, 450B.188,
34 453.164, 453.720, 453A.610, 453A.700, 458.055, 458.280, 459.050,
35 459.3866, 459.555, 459.7056, 459.846, 463.120, 463.15993,
36 463.240, 463.3403, 463.3407, 463.790, 467.1005, 480.535, 480.545,
37 480.935, 480.940, 481.063, 481.091, 481.093, 482.170, 482.5536,
38 483.340, 483.363, 483.575, 483.659, 483.800, 484A.469, 484E.070,
39 485.316, 501.344, 503.452, 522.040, 534A.031, 561.285, 571.160,
40 584.655, 587.877, 598.0964, 598.098, 598A.110, 599B.090,
41 603.070, 603A.210, 604A.303, 604A.710, 612.265, 616B.012,
42 616B.015, 616B.315, 616B.350, 618.341, 618.425, 622.238,
43 622.310, 623.131, 623A.137, 624.110, 624.265, 624.327, 625.425,
44 625A.185, 628.418, 628B.230, 628B.760, 629.047, 629.069,
45 630.133, 630.2673, 630.30665, 630.336, 630A.555, 631.368,



1 632.121, 632.125, 632.3415, 632.405, 633.283, 633.301, 633.4715,
2 633.524, 634.055, 634.214, 634A.185, 635.158, 636.107, 637.085,
3 637B.288, 638.087, 638.089, 639.2485, 639.570, 640.075,
4 640A.220, 640B.730, 640C.580, 640C.600, 640C.620, 640C.745,
5 640C.760, 640D.190, 640E.340, 641.090, 641.221, 641.325,
6 641A.191, 641A.262, 641A.289, 641B.170, 641B.282, 641B.460,
7 641C.760, 641C.800, 642.524, 643.189, 644A.870, 645.180,
8 645.625, 645A.050, 645A.082, 645B.060, 645B.092, 645C.220,
9 645C.225, 645D.130, 645D.135, 645G.510, 645H.320, 645H.330,
10 647.0945, 647.0947, 648.033, 648.197, 649.065, 649.067, 652.228,
11 653.900, 654.110, 656.105, 657A.510, 661.115, 665.130, 665.133,
12 669.275, 669.285, 669A.310, 671.170, 673.450, 673.480, 675.380,
13 676A.340, 676A.370, 677.243, 678A.470, 678C.710, 678C.800,
14 679B.122, 679B.124, 679B.152, 679B.159, 679B.190, 679B.285,
15 679B.690, 680A.270, 681A.440, 681B.260, 681B.410, 681B.540,
16 683A.0873, 685A.077, 686A.289, 686B.170, 686C.306, 687A.110,
17 687A.115, 687C.010, 688C.230, 688C.480, 688C.490, 689A.696,
18 692A.117, 692C.190, 692C.3507, 692C.3536, 692C.3538,
19 692C.354, 692C.420, 693A.480, 693A.615, 696B.550, 696C.120,
20 703.196, 704B.325, 706.1725, 706A.230, 710.159, 711.600,
21 sections 35, 38 and 41 of chapter 478, Statutes of Nevada 2011 and
22 section 2 of chapter 391, Statutes of Nevada 2013 and unless
23 otherwise declared by law to be confidential, all public books and
24 public records of a governmental entity must be open at all times
25 during office hours to inspection by any person, and may be fully
26 copied or an abstract or memorandum may be prepared from those
27 public books and public records. Any such copies, abstracts or
28 memoranda may be used to supply the general public with copies,
29 abstracts or memoranda of the records or may be used in any other
30 way to the advantage of the governmental entity or of the general
31 public. This section does not supersede or in any manner affect the
32 federal laws governing copyrights or enlarge, diminish or affect in
33 any other manner the rights of a person in any written book or
34 record which is copyrighted pursuant to federal law.

35 2. A governmental entity may not reject a book or record
36 which is copyrighted solely because it is copyrighted.

37 3. A governmental entity that has legal custody or control of a
38 public book or record shall not deny a request made pursuant to
39 subsection 1 to inspect or copy or receive a copy of a public book or
40 record on the basis that the requested public book or record contains
41 information that is confidential if the governmental entity can
42 redact, delete, conceal or separate, including, without limitation,
43 electronically, the confidential information from the information
44 included in the public book or record that is not otherwise
45 confidential.



4. If requested, a governmental entity shall provide a copy of a public record in an electronic format by means of an electronic medium. Nothing in this subsection requires a governmental entity to provide a copy of a public record in an electronic format or by means of an electronic medium if:

(a) The public record:

(1) Was not created or prepared in an electronic format; and

(2) Is not available in an electronic format; or

(b) Providing the public record in an electronic format or by means of an electronic medium would:

(1) Give access to proprietary software; or

(2) Require the production of information that is confidential and that cannot be redacted, deleted, concealed or separated from information that is not otherwise confidential.

5. An officer, employee or agent of a governmental entity who has legal custody or control of a public record:

(a) Shall not refuse to provide a copy of that public record in the medium that is requested because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium.

(b) Except as otherwise provided in NRS 239.030, shall, upon request, prepare the copy of the public record and shall not require the person who has requested the copy to prepare the copy himself or herself.

Sec. 3. This act becomes effective upon passage and approval.

