

ASSEMBLY BILL NO. 143—ASSEMBLYMAN O’NEILL

FEBRUARY 9, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing counties.
(BDR 20-460)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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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 counties; authorizing, under certain circumstances, a board of county commissioners of certain counties to convey without consideration real property acquired directly from the Federal Government for purposes of clearing title to certain persons; exempting such transfers from the real property transfer tax; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law sets forth certain procedures for a board of county commissioners to transfer or sell real property. (NRS 244.2795-244.296) **Section 1** of this bill authorizes the board of county commissioners of a county whose population is less than 4,500 (currently Esmeralda, Eureka and Storey Counties) to convey, without consideration and without complying with certain requirements in existing law, real property that the county acquired directly from the Federal Government for the purpose of clearing title to the property. (NRS 244.281) The real property must be conveyed to the person or persons, as applicable, who have an interest in the property. To convey such real property, **section 1** requires the board of county commissioners to execute and record a deed, which is effective upon recordation. **Section 1** further requires the board of county commissioners, upon recordation of the deed, to send actual notice by certified mail to the person or persons to whom the property was conveyed. The notice must include, without limitation, a copy of the recorded deed and information on how the person may disclaim the interest in the property.

Section 5.5 of this bill provides that if the board of county commissioners of a county whose population is less than 4,500 (currently Esmeralda, Eureka and Storey Counties) conveys any real property pursuant to **section 1** between October 1, 2023, and June 30, 2024, the county recorder of the county shall report to the Joint Interim Standing Committee on Government Affairs the number of such conveyances initiated or completed.



Sections 2 and 3 of this bill make conforming changes to exempt such conveyances from the provisions that generally apply to the sale or lease of property by a board of county commissioners.

Section 5 of this bill exempts conveyances executed pursuant to **section 1** from the real property transfer tax.

Section 4 of this bill indicates the proper placement of **section 1** in the Nevada Revised Statutes.

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

Section 1. Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:

1. The board of county commissioners of a county whose population is less than 4,500 may convey real property, without consideration or without complying with the provisions of NRS 244.281, if:

(a) The real property was acquired by the county directly from the Federal Government for the purpose of clearing title to the real property; and

(b) The board of county commissioners conveys the real property to the person or persons, as applicable, who have an interest in the real property.

2. If the board of county commissioners of a county whose population is less than 4,500 conveys real property pursuant to subsection 1, the board must execute and record a deed, which shall be effective upon recordation. Upon recordation, the board of county commissioners must send actual notice by certified mail to the person or persons, as applicable, to whom the property was conveyed that includes, without limitation, a copy of the recorded deed and information on how the person may disclaim the interest in property.

Sec. 2. NRS 244.2795 is hereby amended to read as follows:

244.2795 1. Except as otherwise provided in NRS 244.189, 244.276, 244.279, 244.2815, 244.2825, 244.2833, 244.2835, 244.284, 244.287, 244.290, 278.479 to 278.4965, inclusive, **and section 1 of this act**, and subsection 3 of NRS 496.080, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on or before October 1, 2004, except if the board of county commissioners is entering into a joint development agreement for real property owned by the county to which the board of county commissioners is a party, except for a lease of residential property with a term of 1 year or less, except for the sale or lease of real



property to a public utility, as defined in NRS 704.020, to be used for a public purpose, except for the sale or lease of real property to the State or another governmental entity and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election or special election, the board of county commissioners shall, when offering any real property for sale or lease:

(a) Except as otherwise provided in this paragraph and paragraph (h) of subsection 1 of NRS 244.281, obtain two independent appraisals of the real property before selling or leasing it. If the board of county commissioners holds a public hearing on the matter of the fair market value of the real property, one independent appraisal of the real property 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 real property is offered for sale or lease.

(b) 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 board of county commissioners as to the qualifications of the appraiser is conclusive.

2. The board of county commissioners shall adopt by ordinance the procedures for creating or amending a list of appraisers qualified to conduct appraisals of real property offered for sale or lease by the board. The list must:

(a) Contain the names of all persons qualified to act as a general appraiser in the same county as the real property 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 that may constitute a conflict of interest and any relationship with the real property owner or the owner of an adjoining real property.

4. An appraiser shall not perform an appraisal on any real property for sale or lease by the board of county commissioners if:

(a) The appraiser has an interest in the real property or an adjoining property;

(b) The real property is located in a county whose population is 45,000 or more and any person who is related to the appraiser has an interest in the real property or an adjoining property and the relationship between the appraiser and the person is within the third degree of consanguinity or affinity; or



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(c) The real property is located in a county whose population is less than 45,000 and any person who is related to the appraiser has an interest in the real property or an adjoining property and the relationship between the appraiser and the person is within the second degree of consanguinity or affinity.

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

Sec. 3. NRS 244.281 is hereby amended to read as follows:

244.281 1. Except as otherwise provided in this subsection and NRS 244.189, 244.276, 244.279, 244.2815, 244.2825, 244.2833, 244.2835, 244.284, 244.287, 244.290, 278.479 to 278.4965, inclusive, *and section 1 of this act*, and subsection 3 of NRS 496.080, except as otherwise required by federal law, except as otherwise required pursuant to a cooperative agreement entered into pursuant to NRS 277.050 or 277.053 or an interlocal agreement in existence on or before October 1, 2004, except if the board of county commissioners is entering into a joint development agreement for real property owned by the county to which the board of county commissioners is a party, except for a lease of residential property with a term of 1 year or less, except for the sale or lease of real property to a public utility, as defined in NRS 704.020, to be used for a public purpose and except for the sale or lease of real property larger than 1 acre which is approved by the voters at a primary or general election or special election:

(a) When a board of county commissioners has determined by resolution that the sale or lease of any real property owned by the county will be for purposes other than to establish, align, realign, change, vacate or otherwise adjust any street, alley, avenue or other thoroughfare, or portion thereof, or flood control facility within the county and will be in the best interest of the county, it may:

(1) Sell the real property in the manner prescribed for the sale of real property in NRS 244.282.

(2) Lease the real property in the manner prescribed for the lease of real property in NRS 244.283.

(b) Before the board of county commissioners may sell or lease any real property as provided in paragraph (a), it shall:

(1) Post copies of the resolution described in paragraph (a) in three public places in the county; and

(2) Cause to be published at least once a week for 3 successive weeks, in a newspaper qualified under chapter 238 of



NRS that is published in the county in which the real property is located, a notice setting forth:

(I) A description of the real property proposed to be sold or leased in such a manner as to identify it;

(II) The minimum price, if applicable, of the real property proposed to be sold or leased; and

(III) The places at which the resolution described in paragraph (a) has been posted pursuant to subparagraph (1), and any other places at which copies of that resolution may be obtained.

➤ If no qualified newspaper is published within the county in which the real property is located, the required notice must be published in some qualified newspaper printed in the State of Nevada and having a general circulation within that county.

(c) Except as otherwise provided in this paragraph and paragraph (h), if the board of county commissioners by its resolution further finds that the real property to be sold or leased is worth more than \$1,000, the board shall select two or more disinterested, competent real estate appraisers pursuant to NRS 244.2795 to appraise the real property. If the board of county commissioners holds a public hearing on the matter of the fair market value of the property, one disinterested, competent appraisal of the real property is sufficient before selling or leasing it. Except for real property acquired pursuant to NRS 371.047, the board of county commissioners shall not sell or lease it for less than:

(1) If two independent appraisals were obtained, the average of the appraisals of the real property.

(2) If only one independent appraisal was obtained, the appraised value of the real property.

(d) If the real property is appraised at \$1,000 or more, the board of county commissioners may:

(1) Lease the real property; or

(2) Sell the real property either for cash or for not less than 25 percent cash down and upon deferred payments over a period of not more than 10 years, secured by a mortgage or deed of trust, bearing such interest and upon such further terms as the board of county commissioners may specify.

(e) A board of county commissioners may sell or lease any real property owned by the county without complying with the provisions of NRS 244.282 or 244.283 to:

(1) A person who owns real property located adjacent to the real property to be sold or leased if the board has determined by resolution that the sale will be in the best interest of the county and the real property is a:

(I) Remnant that was separated from its original parcel due to the construction of a street, alley, avenue or other



thoroughfare, or portion thereof, flood control facility or other public facility;

(II) Parcel that, as a result of its size, is too small to establish an economically viable use by anyone other than the person who owns real property adjacent to the real property for sale or lease; or

(III) Parcel which is subject to a deed restriction prohibiting the use of the real property by anyone other than the person who owns real property adjacent to the real property for sale or lease.

(2) The State or another governmental entity if:

(I) The sale or lease restricts the use of the real property to a public use; and

(II) The board adopts a resolution finding that the sale or lease will be in the best interest of the county.

(f) A board of county commissioners that disposes of real property pursuant to paragraph (d) is not required to offer to reconvey the real property to the person from whom the real property was received or acquired by donation or dedication.

(g) If real property 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 real property, the board of county commissioners may offer the real property for sale or lease a second time pursuant to this section. The board of county commissioners must obtain a new appraisal or appraisals, as applicable, of the real property pursuant to the provisions of NRS 244.2795 before offering the real property for sale or lease a second time if:

(1) There is a material change relating to the title, the zoning or an ordinance governing the use of the real property; or

(2) The appraisal or appraisals, as applicable, were prepared more than 6 months before the date on which the real property is offered for sale or lease the second time.

(h) If real property 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 real property, the board of county commissioners may list the real property for sale or lease at the appraised value or average of the appraised value if two or more appraisals were obtained, as applicable, 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 real property or an adjoining property. If the appraisal or appraisals, as applicable, were prepared more than 6 months before the date on which the real property is listed with a licensed real estate broker, the board of county commissioners must obtain one new appraisal of the real property pursuant to the provisions of



1 NRS 244.2795 before listing the real property for sale or lease at the
2 new appraised value.

3 2. If real property is sold or leased in violation of the
4 provisions of this section:

5 (a) The sale or lease is void; and

6 (b) Any change to an ordinance or law governing the zoning or
7 use of the real property is void if the change takes place within 5
8 years after the date of the void sale or lease.

9 3. As used in this section, "flood control facility" has the
10 meaning ascribed to it in NRS 244.276.

11 **Sec. 4.** NRS 371.047 is hereby amended to read as follows:

12 371.047 1. A county may use the proceeds of the tax imposed
13 pursuant to NRS 371.043 or 371.045, or of bonds, notes or other
14 obligations incurred to which the proceeds of those taxes are
15 pledged to finance a project related to the construction of a highway
16 with limited access, to:

17 (a) Purchase residential real property which shares a boundary
18 with a highway with limited access or a project related to the
19 construction of a highway with limited access, and which is
20 adversely affected by the highway. Not more than 1 percent of the
21 proceeds of the tax or of any bonds to which the proceeds of the tax
22 are pledged may be used for this purpose.

23 (b) Pay for the cost of moving persons whose primary
24 residences are condemned for a right-of-way for a highway with
25 limited access and who qualify for such payments. The board of
26 county commissioners shall, by ordinance, establish the
27 qualifications for receiving payments for the cost of moving
28 pursuant to this paragraph.

29 2. A county may, in accordance with NRS 244.265 to 244.296,
30 inclusive, *and section 1 of this act*, dispose of any residential real
31 property purchased pursuant to this section, and may reserve and
32 except easements, rights or interests related thereto, including, but
33 not limited to:

34 (a) Abutter's rights of light, view or air.

35 (b) Easements of access to and from abutting land.

36 (c) Covenants prohibiting the use of signs, structures or devices
37 advertising activities not conducted, services not rendered or goods
38 not produced or available on the real property.

39 3. Proceeds from the sale or lease of residential real property
40 acquired pursuant to this section must be used for the purposes set
41 forth in this section and in NRS 371.043 or 371.045, as applicable.

42 4. For the purposes of this section, residential real property is
43 adversely affected by a highway with limited access if the
44 construction or proposed use of the highway:



(a) Constitutes a taking of all or any part of the property, or interest therein;

(b) Lowers the value of the property; or

(c) Constitutes a nuisance.

5. As used in this section:

(a) "Highway with limited access" means a divided highway for through traffic with full control of access and with grade separations at intersections.

(b) "Primary residence" means a dwelling, whether owned or rented by the occupant, which is the sole principal place of residence of that occupant.

(c) "Residential real property" means a lot or parcel of not more than 1.5 acres upon which a single-family or multifamily dwelling is located.

Sec. 5. NRS 375.090 is hereby amended to read as follows:

375.090 The taxes imposed by NRS 375.020, 375.023 and 375.026 do not apply to:

1. A mere change in identity, form or place of organization, such as a transfer between a business entity and its parent, its subsidiary or an affiliated business entity if the affiliated business entity has identical common ownership.

2. A transfer of title to the United States, any territory or state or any agency, department, instrumentality or political subdivision thereof.

3. A transfer of title recognizing the true status of ownership of the real property, including, without limitation, a transfer by an instrument in writing pursuant to the terms of a land sale installment contract previously recorded and upon which the taxes imposed by this chapter have been paid.

4. A transfer of title without consideration from one joint tenant or tenant in common to one or more remaining joint tenants or tenants in common.

5. A transfer, assignment or other conveyance of real property if the owner of the property is related to the person to whom it is conveyed within the first degree of lineal consanguinity or affinity.

6. A transfer of title between former spouses in compliance with a decree of divorce.

7. A transfer of title to or from a trust without consideration if a certificate of trust is presented at the time of transfer.

8. Transfers, assignments or conveyances of unpatented mines or mining claims.

9. A transfer, assignment or other conveyance of real property to a corporation or other business organization if the person conveying the property owns 100 percent of the corporation or organization to which the conveyance is made.



10. A conveyance of real property by deed which becomes effective upon the death of the grantor pursuant to NRS 111.655 to 111.699, inclusive, and a Death of Grantor Affidavit recorded in the office of the county recorder pursuant to NRS 111.699.

11. The making, delivery or filing of conveyances of real property to make effective any plan of reorganization or adjustment:

(a) Confirmed under the Bankruptcy Act, as amended, 11 U.S.C. §§ 101 et seq.;

(b) Approved in an equity receivership proceeding involving a railroad, as defined in the Bankruptcy Act; or

(c) Approved in an equity receivership proceeding involving a corporation, as defined in the Bankruptcy Act,

↪ if the making, delivery or filing of instruments of transfer or conveyance occurs within 5 years after the date of the confirmation, approval or change.

12. A transfer to an educational foundation. As used in this subsection, "educational foundation" has the meaning ascribed to it in subsection 3 of NRS 388.750.

13. A transfer to a university foundation. As used in this subsection, "university foundation" has the meaning ascribed to it in subsection 3 of NRS 396.405.

14. A transfer to a library foundation. As used in this subsection, "library foundation" has the meaning ascribed to it in NRS 379.0056.

15. A conveyance of real property to a person or persons from the board of county commissioners of a county whose population is less than 4,500 pursuant to section 1 of this act.

Sec. 5.5. If the board of county commissioners of a county whose population is less than 4,500 conveys any real property pursuant to section 1 of this act between October 1, 2023, and June 30, 2024, the county recorder of the county shall, on or before July 1, 2024, report to the Joint Interim Standing Committee on Government Affairs the number of such conveyances initiated or completed.

Sec. 6. This act becomes effective on October 1, 2023, and expires by limitation on June 30, 2025.

