

SENATE BILL NO. 326—SENATOR CARE

MARCH 24, 2005

Referred to Committee on Judiciary

SUMMARY—Makes various changes to provisions governing eminent domain. (BDR 3-78)

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; limiting the public purposes for which the right of eminent domain may be exercised; restricting the authority of a redevelopment agency to acquire real property by eminent domain; requiring a redevelopment agency that acquires real property on which a business is conducted to compensate the owner of the business for the loss of goodwill under certain circumstances; and providing other matters properly relating thereto.

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

1 **Section 1.** Chapter 37 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 ***1. The right of eminent domain may not be exercised***
4 ***pursuant to subsection 2 or 3 of NRS 37.010 by the State of***
5 ***Nevada, any political subdivision of the State or any other***
6 ***governmental entity that possesses the power of eminent domain***
7 ***in order to acquire property for:***

8 ***(a) Open-space use; or***

9 ***(b) The purpose of protecting, conserving or preserving***
10 ***wildlife habitat.***

11 ***2. As used in this section, “open-space use” has the meaning***
12 ***ascribed to it in NRS 376A.010.***



1 **Sec. 2.** NRS 279.471 is hereby amended to read as follows:

2 279.471 1. *Except as otherwise provided in this subsection,*
3 *an agency may exercise the power of eminent domain to acquire*
4 *property for a redevelopment project only if the agency adopts a*
5 *resolution that includes a written finding by the agency that a*
6 *condition of blight exists for each individual parcel of property to*
7 *be acquired by eminent domain. An agency may exercise the*
8 *power of eminent domain to acquire a parcel of property that is*
9 *not blighted for a redevelopment project if the agency adopts a*
10 *resolution that includes a written finding by the agency that a*
11 *condition of blight exists for at least two-thirds of the property*
12 *within the redevelopment area. If an agency acquires a parcel of*
13 *property that is not blighted on which a business is conducted, the*
14 *owner or owners of the business must be compensated for the loss*
15 *of goodwill resulting from the acquisition of the parcel of*
16 *property.*

17 2. In *addition to the requirement set forth in subsection 1, in a*
18 *county whose population is 100,000 or more, an agency may*
19 *exercise the power of eminent domain to acquire property for a*
20 *redevelopment project only if:*

21 (a) The property sought to be acquired is necessary to carry out
22 the redevelopment plan;

23 (b) The agency has adopted a resolution of necessity that
24 complies with the requirements set forth in subsection ~~2~~ 3; and

25 (c) The agency has made every reasonable effort to negotiate the
26 purchase of the property.

27 ~~2~~ 3. A resolution of necessity required pursuant to paragraph
28 (b) of subsection ~~1~~ 2 must set forth:

29 (a) A statement that the property will be acquired for purposes
30 of redevelopment as authorized pursuant to subsection 17 of NRS
31 37.010 and subsection 2 of NRS 279.470;

32 (b) A reasonably detailed description of the property to be
33 acquired;

34 (c) A finding by the agency that the public interest and necessity
35 require the acquisition of the property;

36 (d) A finding by the agency that acquisition of the property will
37 be the option for redevelopment that is most compatible with the
38 greatest public good and the least private injury; and

39 (e) A finding by the agency that acquisition of the property is
40 necessary for purposes of redevelopment.

41 ~~3~~ 4. After an agency adopts a resolution ~~[of necessity,]~~
42 *pursuant to subsection 1 or 2,* the resolution so adopted and the
43 findings set forth in the resolution are final and conclusive and are
44 not subject to judicial review unless credible evidence is adduced to



1 suggest that the resolution or the findings set forth therein were
2 procured through bribery or fraud.

3 **Sec. 3.** 1. Except as otherwise provided in subsection 2, the
4 amendatory provisions of this act apply to an action in eminent
5 domain that is filed before, on or after July 1, 2005, including any
6 pending action.

7 2. The provisions of this act do not apply to any action for
8 which a final judgment has been entered and for which no further
9 appeal may be filed.

10 **Sec. 4.** This act becomes effective on July 1, 2005.



