
ASSEMBLY BILL NO. 408—ASSEMBLYMEN FIORE, SHELTON,
DOOLING, TITUS, SEAMAN; DICKMAN, ELLISON, GARDNER,
HANSEN, JONES, MOORE, MUNFORD, O’NEILL, OSCARSON
AND WHEELER

MARCH 17, 2015

JOINT SPONSOR: SENATOR GUSTAVSON

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Enacts provisions governing the acquisition and use
of certain public lands. (BDR 26-1060)

FISCAL NOTE: Effect on Local Government: No.
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 public lands; prohibiting the Federal Government from owning or regulating certain public lands or the right to use public waters; requiring the State Land Registrar to adopt regulations that provide for the appropriation and registration of grazing, logging, mineral development or other beneficial use rights on public lands; requiring the State Land Registrar to sell permits for grazing, logging, mineral development or other beneficial uses on public lands for which such rights are not registered and appropriated; requiring the board of county commissioners of each county to impose a tax on profits from the beneficial use of public lands; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 The United States Constitution authorizes the Federal Government to exercise
2 authority over land purchased by consent of the legislature of the state in which the
3 land lies for the erection of forts, magazines, arsenals, dockyards and other needful
4 buildings. (U.S. Const. Art. I, § 8, cl. 17)

5 Existing law: (1) sets forth the manner in which an officer of an agency or
6 instrumentality of the United States may apply to the Director of the Legislative



7 Counsel Bureau to obtain a cession of concurrent criminal jurisdiction or other
8 jurisdiction from the State of Nevada; and (2) authorizes the Legislature to enact a
9 resolution ceding that jurisdiction to the United States respecting any land held by
10 the United States for the erection of forts, magazines, arsenals, dockyards or other
11 needful buildings or for any other governmental purpose authorized by the
12 Constitution of the United States. (NRS 328.065-328.135)

13 **Section 3** of this bill prohibits the Federal Government from owning or
14 regulating activity on any land in this State that it has not acquired with the consent
15 of the Legislature and upon which it has not erected forts, magazines, arsenals,
16 dockyards or other needful buildings. **Section 3** provides that the rights to own and
17 use such land are the common property of the citizens of this State. **Section 3**
18 requires the State to respect all agreements that guarantee persons the right to use
19 such land.

20 Existing law provides for the appropriation and registration of rights to use
21 public waters in this State. (NRS 533.324-533.435) **Section 3** also prohibits the
22 Federal Government from owning water rights in this State and provides for the
23 appropriation and registration of water rights claimed by the Federal Government in
24 the manner provided by statute for the appropriation of the right to use public
25 waters.

26 **Section 4** of this bill requires the State Land Registrar to provide for the
27 appropriation and registration of grazing, logging, mineral development or any
28 other beneficial use rights on public lands, including land to which the Federal
29 Government claims ownership or rights. The State Land Registrar must award such
30 rights to the first person who puts the land to beneficial use for grazing, logging,
31 mineral development or another beneficial use, as applicable, and require a person
32 to continue to use the land for such a beneficial use in order to retain the rights.

33 **Section 5** of this bill requires the State Land Registrar to publish notice each time a
34 right to use public lands for grazing, logging, mineral development or any other
35 beneficial use becomes available, and **section 6** of this bill authorizes a person to
36 protest the appropriation and registration of such rights. **Section 7** of this bill
37 requires the State Land Registrar to hold an annual auction to sell permits to use
38 land for which rights have not been appropriated for grazing, logging, mineral
39 development or any other beneficial use. **Section 7** also provides that if the holder
40 of such a permit puts the land to such a beneficial use for 4 consecutive years, he or
41 she can appropriate the right to use the land for that beneficial use.

42 **Section 8** of this bill requires the board of county commissioners of each
43 county to impose a tax on the profits gained through the beneficial use of public
44 lands.

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

1 **Section 1.** Chapter 321 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 2 to 8, inclusive, of this
3 act.

4 **Sec. 2.** *As used in sections 2 to 8, inclusive, of this act,*
5 *“public lands” means all lands within the exterior boundaries of*
6 *the State of Nevada except lands:*

- 7 1. *To which title is held by any private person or entity;*
8 2. *To which title is held by the State of Nevada, any of its*
9 *local governments or the Nevada System of Higher Education;*



1 3. To which title has been acquired by the Federal
2 Government pursuant to section 3 of this act; or

3 4. Which are held in trust for Indian purposes or are Indian
4 reservations.

5 **Sec. 3.** 1. Notwithstanding any other provision of law, the
6 Federal Government shall not own land within the borders of this
7 State unless:

8 (a) The Federal Government provides consideration to this
9 State;

10 (b) The Legislature cedes jurisdiction over the land to the
11 Federal Government pursuant to NRS 328.065 to 328.135,
12 inclusive;

13 (c) The Federal Government uses the land for purposes
14 authorized by Clause 17 of Section 8 of Article I of the
15 Constitution of the United States; and

16 (d) The Federal Government records the deed to the land with
17 the county recorder in the county in which the land is located.

18 2. Except as otherwise provided in subsection 1, the Federal
19 Government shall not own rights to use land or water, post signs
20 on any land or dispose of, lease, issue permits for use of, collect
21 fees relating to, prohibit or restrict the use of or enter into any
22 contract relating to land or water within the borders of this State
23 for any purpose.

24 3. Any land or water or rights to use land or water to which
25 the Federal Government claims ownership in violation of this
26 section are the common property of the citizens of this State and
27 the right to put such land to beneficial use may be appropriated as
28 provided in the regulations adopted pursuant to section 4 of this
29 act. The right to put such water to beneficial use may be
30 appropriated in the manner prescribed by NRS 533.324 to
31 533.435, inclusive.

32 4. Until equivalent measures are enacted by the State of
33 Nevada, the rights and privileges of the people of the State of
34 Nevada under the National Forest Reserve Transfer Act (16
35 U.S.C. §§ 471 et seq.), the General Mining Laws (30 U.S.C. §§ 21
36 et seq.), the Homestead Act (43 U.S.C. §§ 161 et seq.), the Taylor
37 Grazing Act (43 U.S.C. §§ 315 et seq.), the Desert Land Act (43
38 U.S.C. §§ 321 et seq.), the Carey Act (43 U.S.C. §§ 641 et seq.) and
39 the Public Rangelands Improvement Act (43 U.S.C. §§ 1901 et
40 seq.) and all rights-of-way and easements held by persons must be
41 preserved under administration by the State.

42 5. Public lands in Nevada which have been administered by
43 the United States under international treaties or interstate
44 compacts must continue to be administered by the State in
45 conformance with those treaties or compacts, as applicable.



1 6. *The Federal Government and officials and agents thereof*
2 *shall not enforce any federal law or regulation in this State except*
3 *on land acquired pursuant to subsection 1.*

4 **Sec. 4.** *The State Land Registrar shall adopt regulations*
5 *establishing conditions under which a person may appropriate the*
6 *right to use public lands for grazing, logging, mineral*
7 *development or any other beneficial use and the procedures for*
8 *appropriating such rights. The regulations must:*

9 1. *Provide for the appropriation of grazing, logging, mineral*
10 *development or other beneficial use rights on public lands:*

11 (a) *To the first person who used the land for which the rights*
12 *are claimed and who continues to use the land for that purpose; or*

13 (b) *If the land for which the rights are claimed has not been*
14 *used in the manner for which the rights are claimed, to the first*
15 *person who claims the rights.*

16 2. *Establish procedures by which claims to such rights may*
17 *be registered with the State Land Registrar. Each right must be*
18 *identified by priority date, the manner in which the land is being*
19 *used, the geographic boundaries of the land being used and the*
20 *person who claims the right.*

21 3. *Provide for the appropriation of grazing rights on public*
22 *lands to a person who owns stock-watering rights on those public*
23 *lands pursuant to chapter 533 of NRS and the designation of the*
24 *priority date for such grazing rights as the recorded priority date*
25 *for the stock-watering rights held by the person.*

26 4. *Require the owner of grazing, logging, mineral*
27 *development or other beneficial use rights for public lands to*
28 *submit once each 5 years:*

29 (a) *Any available proof that he or she is putting the land for*
30 *which rights are held to beneficial use in the manner for which*
31 *the rights are held. Such proof may include:*

32 (1) *Proof that the person has paid the tax levied pursuant to*
33 *section 8 of this act; or*

34 (2) *Other proof acceptable to the State Land Registrar that*
35 *the person is using the land in the manner for which the rights are*
36 *held and that such use is beneficial to the person who holds the*
37 *rights.*

38 (b) *A report describing in detail the manner in which the*
39 *person who holds the grazing, logging, mineral development or*
40 *other beneficial use rights to public lands plans to use the land.*

41 5. *Prohibit the sale or lease of grazing, logging, mineral*
42 *development or other beneficial use rights on public lands unless*
43 *the person who holds such rights provides proof pursuant to*
44 *subsection 4 that the person has put the land for which rights are*



1 *held to beneficial use in the manner for which the rights are held*
2 *for 4 consecutive years.*

3 6. *Authorize another person to claim a right to use public*
4 *land for grazing, logging, mineral development or any other*
5 *beneficial use if the person who holds the right does not provide*
6 *proof pursuant to subsection 4 that he or she has put the land for*
7 *which rights are held to beneficial use in the manner for which*
8 *the rights are held for at least 2 of the 5 years for which he or she*
9 *is required to provide such proof.*

10 7. *Require each person who wishes to appropriate and*
11 *register grazing, logging, mineral development or other beneficial*
12 *use rights on public lands to publish the claim for 120 consecutive*
13 *days.*

14 8. *Provide for the appropriation and registration of a grazing,*
15 *logging, mineral development or other beneficial use right if a*
16 *protest is not filed pursuant to section 6 of this act during the 120*
17 *day period prescribed in subsection 7 and require each person who*
18 *appropriates and registers such a right to record the right with the*
19 *county recorder in the county in which the land is located.*

20 9. *Prohibit the Federal Government and any governmental*
21 *entity from outside this State from registering grazing, logging,*
22 *mineral development or other beneficial use rights on public lands*
23 *pursuant to this section.*

24 **Sec. 5. 1.** *When a right to use public lands for logging,*
25 *grazing, mineral development or any other beneficial use becomes*
26 *available, the State Land Registrar shall publish notice of the*
27 *availability of the right in a newspaper of general circulation in*
28 *the county in which the land is located. A person claiming the*
29 *right has 120 days after the date of publication to submit his or*
30 *her claim to the State Land Registrar as provided in the*
31 *regulations adopted pursuant to section 4 of this act.*

32 2. *If a right to use public lands for logging, grazing, mineral*
33 *development or any other beneficial use has not been appropriated*
34 *and registered within 120 days after the date on which notice of*
35 *the availability of the right has been published pursuant to*
36 *subsection 1, the State Land Registrar shall publish a second*
37 *notice of the availability of the right in a newspaper of general*
38 *circulation in the county in which the land is located. A person*
39 *claiming the right has 60 days after the date of publication to*
40 *submit his or her claim to the State Land Registrar as provided in*
41 *the regulations adopted pursuant to section 4 of this act.*

42 **Sec. 6. 1.** *Any person who objects to the availability of the*
43 *right to use public land for logging, grazing, mineral development*
44 *or any other beneficial use during the period prescribed in*
45 *subsection 1 or 2 of section 5 of this act may file a protest with the*



1 *State Land Registrar, and the State Land Registrar shall make a*
2 *determination of the validity of the protest. If the State Land*
3 *Registrar determines that the right should not be available, he or*
4 *she shall publish in a newspaper of general circulation in the*
5 *county in which the land is located notice that the land is no*
6 *longer available.*

7 2. *Any person who objects to the appropriation of the right to*
8 *use public land for logging, grazing, mineral development or any*
9 *other beneficial use by the claimant during the period prescribed*
10 *in subsection 7 of section 4 of this act may file a protest with the*
11 *State Land Registrar, and the State Land Registrar shall make a*
12 *determination of the validity of the protest. If the State Land*
13 *Registrar determines that another person should be awarded the*
14 *right or that the claimant should not be awarded the right for any*
15 *other reason, the State Land Registrar shall refuse to register the*
16 *right.*

17 3. *A person aggrieved by a decision of the State Land*
18 *Registrar concerning a protest filed pursuant to this section may*
19 *appeal the decision in the manner prescribed in NRS 321.5987.*

20 4. *The Attorney General may initiate or defend any action*
21 *commenced in any court to carry out or enforce the provisions of*
22 *sections 2 to 8, inclusive, of this act or seek appropriate judicial*
23 *relief to protect the interests of the State or the people of the State*
24 *in the public lands.*

25 **Sec. 7. 1.** *If the right to use public land for logging,*
26 *grazing, mineral development or any other beneficial use is not*
27 *appropriated and registered in the periods prescribed in section 5*
28 *of this act, the right becomes the common property of the citizens*
29 *of this State. The State Land Registrar shall hold an annual*
30 *auction of permits to use public lands for grazing, logging,*
31 *mineral development or any other beneficial use. Such permits*
32 *must be sold to the highest bidder for a price not lower than \$500.*
33 *The proceeds from the sale of such permits must be deposited in*
34 *the Revolving Account for Land Management and used by the*
35 *State Land Registrar for the administrative costs of registering*
36 *rights appropriated as provided in the regulations adopted*
37 *pursuant to section 4 of this act and auctioning permits pursuant*
38 *to this section.*

39 2. *If a person who holds a permit to use public lands*
40 *purchased at an auction provides proof to the State Land Registrar*
41 *that he or she has put the land to beneficial use for 4 consecutive*
42 *years in the manner prescribed in subsection 4 of section 4 of this*
43 *act and the regulations adopted pursuant thereto, the person may*
44 *appropriate and register the right to use the land as provided in*
45 *the regulations adopted pursuant to section 4 of this act.*



1 **Sec. 8. 1. The board of county commissioners of each**
2 **county shall, by ordinance, impose a tax on profits earned from**
3 **beneficial use of public lands authorized pursuant to rights**
4 **appropriated and registered as provided in section 4 of this act or a**
5 **permit purchased as provided in section 7 of this act. The**
6 **ordinance imposing the tax must provide the:**

7 **(a) Rate or rates of the tax;**

8 **(b) Procedure for collection of the tax; and**

9 **(c) Rate of interest that will be charged on late payments.**

10 **2. The proceeds of the tax levied pursuant to this section:**

11 **(a) Must be deposited in the county general fund and may be**
12 **used by the board of county commissioners for any lawful**
13 **purpose; and**

14 **(b) Are exempt from the limitation imposed by NRS 354.59811**
15 **and may be excluded in determining the allowed revenue from**
16 **taxes ad valorem for the county.**

17 **Sec. 9. NRS 321.007 is hereby amended to read as follows:**

18 321.007 1. Except as otherwise provided in subsection 5,
19 NRS 321.008, 322.061, 322.063, 322.065 or 322.075, **or section 4**
20 **or 7 of this act**, except as otherwise required by federal law, except
21 for land that is sold or leased to a public utility, as defined in NRS
22 704.020, to be used for a public purpose, except for land that is sold
23 or leased to a state or local governmental entity, except for a lease
24 which is part of a contract entered into pursuant to chapter 333 of
25 NRS and except for land that is sold or leased pursuant to an
26 agreement entered into pursuant to NRS 277.080 to 277.170,
27 inclusive, when offering any land for sale or lease, the State Land
28 Registrar shall:

29 (a) Except as otherwise provided in this paragraph, obtain two
30 independent appraisals of the land before selling or leasing it. If the
31 Interim Finance Committee grants its approval after discussion of
32 the fair market value of the land, one independent appraisal of the
33 land is sufficient before selling or leasing it. The appraisal or
34 appraisals, as applicable, must have been prepared not more than 6
35 months before the date on which the land is offered for sale or lease.

36 (b) Notwithstanding the provisions of chapter 333 of NRS,
37 select the one independent appraiser or two independent appraisers,
38 as applicable, from the list of appraisers established pursuant to
39 subsection 2.

40 (c) Verify the qualifications of each appraiser selected pursuant
41 to paragraph (b). The determination of the State Land Registrar as to
42 the qualifications of an appraiser is conclusive.

43 2. The State Land Registrar shall adopt regulations for the
44 procedures for creating or amending a list of appraisers qualified to



1 conduct appraisals of land offered for sale or lease by the State Land
2 Registrar. The list must:

3 (a) Contain the names of all persons qualified to act as a general
4 appraiser in the same county as the land that may be appraised; and

5 (b) Be organized at random and rotated from time to time.

6 3. An appraiser chosen pursuant to subsection 1 must provide a
7 disclosure statement which includes, without limitation, all sources
8 of income of the appraiser that may constitute a conflict of interest
9 and any relationship of the appraiser with the owner of the land or
10 the owner of an adjoining property.

11 4. An appraiser shall not perform an appraisal on any land
12 offered for sale or lease by the State Land Registrar if the appraiser
13 or a person related to the appraiser within the first degree of
14 consanguinity or affinity has an interest in the land or an adjoining
15 property.

16 5. If a lease of land is for residential property and the term of
17 the lease is 1 year or less, the State Land Registrar shall obtain an
18 analysis of the market value of similar rental properties prepared by
19 a licensed real estate broker or salesperson when offering such a
20 property for lease.

21 6. If land is sold or leased in violation of the provisions of this
22 section:

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

24 (b) Any change to an ordinance or law governing the zoning or
25 use of the land is void if the change takes place within 5 years after
26 the date of the void sale or lease.

27 **Sec. 10.** NRS 321.335 is hereby amended to read as follows:

28 321.335 1. Except as otherwise provided in NRS 321.008,
29 321.125, 322.061, 322.063, 322.065 or 322.075, *or section 4 or 7 of*
30 *this act*, except as otherwise required by federal law, except for land
31 that is sold or leased to a public utility, as defined in NRS 704.020,
32 to be used for a public purpose, except for land that is sold or leased
33 to a state or local governmental entity, except for a lease which is
34 part of a contract entered into pursuant to chapter 333 of NRS and
35 except for an agreement entered into pursuant to the provisions of
36 NRS 277.080 to 277.170, inclusive, or a lease of residential property
37 with a term of 1 year or less, after April 1, 1957, all sales or leases
38 of any lands that the Division is required to hold pursuant to NRS
39 321.001, including lands subject to contracts of sale that have been
40 forfeited, are governed by the provisions of this section.

41 2. Whenever the State Land Registrar deems it to be in the best
42 interests of the State of Nevada that any lands owned by the State
43 and not used or set apart for public purposes be sold or leased, the
44 State Land Registrar may, with the approval of the State Board of
45 Examiners and the Interim Finance Committee, cause those lands to



1 be sold or leased upon sealed bids, or oral offer after the opening of
2 sealed bids for cash or pursuant to a contract of sale or lease, at a
3 price not less than the highest appraised value for the lands plus the
4 costs of appraisal and publication of notice of sale or lease.

5 3. Before offering any land for sale or lease, the State Land
6 Registrar shall comply with the provisions of NRS 321.007.

7 4. After complying with the provisions of NRS 321.007, the
8 State Land Registrar shall cause a notice of sale or lease to be
9 published once a week for 4 consecutive weeks in a newspaper of
10 general circulation published in the county where the land to be sold
11 or leased is situated, and in such other newspapers as the State Land
12 Registrar deems appropriate. If there is no newspaper published in
13 the county where the land to be sold or leased is situated, the notice
14 must be so published in a newspaper published in this State having a
15 general circulation in the county where the land is situated.

16 5. The notice must contain:

17 (a) A description of the land to be sold or leased;

18 (b) A statement of the terms of sale or lease;

19 (c) A statement that the land will be sold pursuant to subsection
20 6; and

21 (d) The place where the sealed bids will be accepted, the first
22 and last days on which the sealed bids will be accepted, and the time
23 when and place where the sealed bids will be opened and oral offers
24 submitted pursuant to subsection 6 will be accepted.

25 6. At the time and place fixed in the notice published pursuant
26 to subsection 4, all sealed bids which have been received must, in
27 public session, be opened, examined and declared by the State Land
28 Registrar. Of the proposals submitted which conform to all terms
29 and conditions specified in the notice published pursuant to
30 subsection 4 and which are made by responsible bidders, the bid
31 which is the highest must be finally accepted, unless a higher oral
32 offer is accepted or the State Land Registrar rejects all bids and
33 offers. Before finally accepting any written bid, the State Land
34 Registrar shall call for oral offers. If, upon the call for oral offers,
35 any responsible person offers to buy or lease the land upon the terms
36 and conditions specified in the notice, for a price exceeding by at
37 least 5 percent the highest written bid, then the highest oral offer
38 which is made by a responsible person must be finally accepted.

39 7. The State Land Registrar may reject any bid or oral offer to
40 purchase or lease submitted pursuant to subsection 6, if the State
41 Land Registrar deems the bid or offer to be:

42 (a) Contrary to the public interest.

43 (b) For a lesser amount than is reasonable for the land involved.

44 (c) On lands which it may be more beneficial for the State to
45 reserve.



1 (d) On lands which are requested by the State of Nevada or any
2 department, agency or institution thereof.

3 8. Upon acceptance of any bid or oral offer and payment to the
4 State Land Registrar in accordance with the terms of sale specified
5 in the notice of sale, the State Land Registrar shall convey title by
6 quitclaim or cause a patent to be issued as provided in NRS 321.320
7 and 321.330.

8 9. Upon acceptance of any bid or oral offer and payment to the
9 State Land Registrar in accordance with the terms of lease specified
10 in the notice of lease, the State Land Registrar shall enter into a
11 lease agreement with the person submitting the accepted bid or oral
12 offer pursuant to the terms of lease specified in the notice of lease.

13 10. The State Land Registrar may require any person
14 requesting that state land be sold pursuant to the provisions of this
15 section to deposit a sufficient amount of money to pay the costs to
16 be incurred by the State Land Registrar in acting upon the
17 application, including the costs of publication and the expenses of
18 appraisal. This deposit must be refunded whenever the person
19 making the deposit is not the successful bidder. The costs of acting
20 upon the application, including the costs of publication and the
21 expenses of appraisal, must be borne by the successful bidder.

22 11. If land that is offered for sale or lease pursuant to this
23 section is not sold or leased at the initial offering of the contract for
24 the sale or lease of the land, the State Land Registrar may offer the
25 land for sale or lease a second time pursuant to this section. If there
26 is a material change relating to the title, zoning or an ordinance
27 governing the use of the land, the State Land Registrar must, as
28 applicable, obtain a new appraisal or new appraisals of the land
29 pursuant to the provisions of NRS 321.007 before offering the land
30 for sale or lease a second time. If land that is offered for sale or
31 lease pursuant to this section is not sold or leased at the second
32 offering of the contract for the sale or lease of the land, the State
33 Land Registrar may list the land for sale or lease at the appraised
34 value with a licensed real estate broker, provided that the broker or a
35 person related to the broker within the first degree of consanguinity
36 or affinity does not have an interest in the land or an adjoining
37 property.

38 **Sec. 11.** This act becomes effective on July 1, 2015.

