

Amendment No. 642

Assembly Amendment to Assembly Bill No. 408 First Reprint (BDR 26-1060)

Proposed by: Assemblywoman Shelton

Amendment Box: Replaces Amendment No. 566.

Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date				
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

JRS/BJE



Date: 4/20/2015

A.B. No. 408—Enacts provisions relating to certain uses of land and the exercise of law enforcement authority in this State. (BDR 26-1060)



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

MARCH 17, 2015

JOINT SPONSOR: SENATOR GUSTAVSON

Referred to Committee on Natural Resources,
Agriculture, and Mining

SUMMARY—Enacts provisions relating to certain uses of land and the exercise of law enforcement authority in this State. (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 governmental administration; ~~declaring the support of the Legislature for certain uses of private property and public lands in this State; authorizing the sheriff of a county to enter into an agreement with a federal agency concerning primary responsibility or the exercise of law enforcement authority on land managed by the federal agency under certain circumstances;~~ enacting provisions governing the right to access and use public lands for certain purposes and the right to the beneficial use of any resources located on deeded property in this State; enacting provisions governing certain grazing rights; prohibiting the Federal Government from engaging in certain activities in this State; providing that certain land, water or other natural resources for which ownership is claimed by the Federal Government shall be deemed to be the common property of the residents of this State; providing that sheriffs and their deputies are the primary law enforcement officers in ~~the unincorporated areas of~~ their respective counties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 ~~Under existing law, the Legislature has declared that the public policy of this State is to~~
2 ~~continue to seek the acquisition of lands retained by the Federal Government within the~~
3 ~~borders of this State. (NRS 221.00051) Section 11 of this bill expands that public policy to~~
4 ~~include: (1) support for an owner of private property in this State to use any resources located~~
5 ~~on that private property; (2) support for the members of the general public in this State to~~
6 ~~access and use any public lands in this State for certain recreational activities; and (2) support~~

7 ~~for the residents of this State to use any public lands in this State in a manner which ensures~~
8 ~~multiple uses of these public lands for these residents.] Section 12.5 of this bill enacts~~
9 ~~certain provisions concerning rights to use land and prohibits the Federal Government~~
10 ~~from engaging in certain activities in this State. Specifically, section 12.5 provides that,~~
11 ~~notwithstanding any other provision of law to the contrary: (1) the right of the residents~~
12 ~~of this State to access and use public lands in this State for recreational use must not be~~
13 ~~infringed; (2) the right to the beneficial use of any resources located on deeded property in~~
14 ~~this State shall be deemed to be reserved to the owner of the property; and (3) a~~
15 ~~person who owns any stock watering rights pursuant to chapter 533 of NRS shall be~~
16 ~~deemed to be the owner of any grazing rights for stock watering rights. In addition,~~
17 ~~section 12.5: (1) prohibits the Federal Government from enforcing any law or regulation~~
18 ~~in this State except on certain land; (2) prohibits the Federal Government and any~~
19 ~~governmental entity located outside this State from submitting an application for,~~
20 ~~owning or otherwise claiming stock watering rights on certain land; and (3) provides~~
21 ~~that certain land, water or other natural resources to which the Federal Government~~
22 ~~claims ownership shall be deemed to be the common property of the residents of this~~
23 ~~State which must be acquired and used in a certain manner.~~

24 Existing law sets forth the general powers and duties of sheriffs and their deputies in this
25 State. (NRS 248.090) ~~(248.250) Section 12 of this bill authorizes the sheriff of any county in~~
26 ~~this State to enter into an agreement with certain federal agencies pursuant to which the sheriff~~
27 ~~and his or her deputies are primarily responsible for the exercise of law enforcement authority~~
28 ~~on land managed by those federal agencies if the agreement: (1) requires the payment of fair~~
29 ~~compensation to the sheriff for exercising law enforcement authority based on federal statutes~~
30 ~~and regulations; and (2) provides that the federal agency recognizes the sheriff as the primary~~
31 ~~law enforcement authority on the land managed by the federal agency.] Section 13 of this bill~~
32 ~~removes the existing provisions of NRS 248.090 which impose a duty on sheriffs and~~
33 ~~their deputies to: (1) keep and preserve the peace and quiet; (2) suppress all affrays,~~
34 ~~riots and insurrections; (3) provide service of process in civil or criminal cases; and (4)~~
35 ~~apprehend or secure any person for a felony or breach of the peace and instead provides~~
36 ~~that the sheriffs and their deputies are the primary law enforcement officers ~~of the~~~~
37 ~~unincorporated areas of] in their respective counties ~~and~~ and any exercise of law enforcement~~
38 ~~authority in a county in this State must be authorized by the sheriff of that county.~~

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

1 **Section 1.** (Deleted by amendment.)

2 **Sec. 2.** (Deleted by amendment.)

3 **Sec. 3.** (Deleted by amendment.)

4 **Sec. 4.** (Deleted by amendment.)

5 **Sec. 5.** (Deleted by amendment.)

6 **Sec. 6.** (Deleted by amendment.)

7 **Sec. 7.** (Deleted by amendment.)

8 **Sec. 8.** (Deleted by amendment.)

9 **Sec. 9.** (Deleted by amendment.)

10 **Sec. 10.** (Deleted by amendment.)

11 **Sec. 11.** ~~NRS 321.00051 is hereby amended to read as follows:~~

12 ~~321.00051 The Legislature hereby declares that the public policy of this State~~
13 ~~is [to] +~~

14 ~~1. To continue to seek the acquisition of lands retained by the Federal~~
15 ~~Government within the borders of this State [.] ; and~~

16 ~~2. To support the ability of:~~

17 ~~(a) An owner of private property in this State to use any resources located on~~
18 ~~that private property, including, without limitation, the development of any~~
19 ~~subsurface rights;~~

~~(b) The members of the general public in this State to access and use any public lands in this State, including, without limitation, any public lands managed and controlled by the Federal Government in this State, for camping, fishing, hiking, hunting, rock climbing, trail riding and any other recreational activity; and~~

~~(c) The residents of this State to use those public lands in a manner which ensures multiple uses of those public lands for those residents.] (Deleted by amendment.)~~

Sec. 12. ~~[Chapter 248 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. The sheriff of a county in this State may enter into an agreement with a federal agency pursuant to which the sheriff and his or her deputies are primarily responsible for the exercise of law enforcement authority on land managed by the federal agency, if the agreement:~~

~~(a) Requires the payment of fair compensation to the sheriff for exercising law enforcement authority based on federal statutes and regulations on the land managed by the federal agency; and~~

~~(b) Provides that the federal agency recognizes the sheriff as the primary law enforcement authority on the land managed by the federal agency.~~

~~2. As used in this section:~~

~~(a) "Exercising law enforcement authority" and "exercise of law enforcement authority" means:~~

~~(1) To take any action to investigate, stop, serve process on, search, arrest, cite, book or incarcerate a person for a federal criminal violation when the action is based on a federal statute or regulation; or~~

~~(2) To gain access to or use the correctional or communication facilities and equipment of any state or local law enforcement agency.~~

~~(b) "Federal agency" means:~~

~~(1) The Bureau of Land Management;~~

~~(2) The Bureau of Reclamation;~~

~~(3) The National Park Service;~~

~~(4) The United States Fish and Wildlife Service; or~~

~~(5) The United States Forest Service.] (Deleted by amendment.)~~

Sec. 12.5. Chapter 321 of NRS is hereby amended by adding thereto a new section to read as follows:

I. Notwithstanding any provision of law to the contrary:

(a) The right of the residents of this State to access and use any public lands in this State for camping, fishing, hiking, hunting, rock climbing, trail riding, including motorized vehicles, or any other recreational use must not be infringed and those public lands must be administered in a manner which ensures multiple uses of those public lands for those residents.

(b) The right to the beneficial use of any resources located on deeded property in this State, including, without limitation, the development of any subsurface minerals, shall be deemed to be reserved to the owner of the property.

(c) Forage and access are essential components of stock watering rights and a person who owns any stock watering rights pursuant to chapter 533 of NRS shall be deemed to be the owner of any grazing rights for the vested stock watering rights.

(d) The Federal Government and any officer or agent of the Federal Government shall not enforce any law or regulation in this State except on land for which this State has given its consent to acquisition by the United States in accordance with Clause 17 of Section 8 of Article 1 of the Constitution of the United States.

1 (e) The Federal Government, and any officer or agent of the Federal
2 Government, and any governmental entity located outside this State may not file
3 an application for, be issued a permit or certificate for, own or otherwise claim
4 any stock watering rights pursuant to chapter 533 of NRS on any land in this
5 State other than land specified in paragraph (d).

6 (f) Any land, water or other natural resource to which the Federal
7 Government claims ownership in this State, other than on land specified in
8 paragraph (d), shall be deemed to be the common property of the residents of this
9 State and must be acquired and used in the same manner as a right to
10 appropriate water for a beneficial use pursuant to NRS 533.324 to 533.435,
11 inclusive.

12 2. As used in this section, "public lands" includes, without limitation, any
13 public lands managed and controlled by the Federal Government in this State.

14 **Sec. 13.** NRS 248.090 is hereby amended to read as follows:

15 248.090 ~~11~~ Sheriffs and their deputies are the primary law enforcement
16 officers in [the unincorporated areas of] their respective counties. [In a county
17 within the jurisdiction of a metropolitan police department, the sheriff and his or
18 her deputies are the primary law enforcement officers in the unincorporated
19 areas of the county and in any incorporated city whose law enforcement agency
20 has been merged into the metropolitan police department.] Any exercise of law
21 enforcement authority in a county in this State must be authorized by the sheriff
22 of that county.

23 ~~[2. Sheriffs and their deputies shall keep and preserve the peace in their~~
24 ~~respective counties, and quiet and suppress all affrays, riots and insurrections, for~~
25 ~~which purpose, and for the service of process in civil or criminal cases, and in~~
26 ~~apprehending or securing any person for felony, or breach of the peace, they may~~
27 ~~call upon the power of their county to aid in such arrest or in preserving the peace.]~~

28 **Sec. 14.** This act becomes effective upon passage and approval.