
ASSEMBLY BILL NO. 197—COMMITTEE ON TRANSPORTATION

(ON BEHALF OF THE NEVADA LEAGUE OF
CITIES AND MUNICIPALITIES)

FEBRUARY 26, 2003

Referred to Committee on Transportation

SUMMARY—Makes various changes concerning certain applications submitted to Department of Transportation by governmental entities for easements or licenses or permits for encroachments on certain highway rights-of-way. (BDR 35-342)

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 highways; requiring the Department of Transportation to act within a certain period upon certain applications from governmental entities for easements or licenses or permits for encroachments on certain highway rights-of-way; providing standards for the consideration of such applications; providing for the judicial review of the denial of such an application; prohibiting the Department from charging certain fees 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 408 of NRS is hereby amended by adding
2 thereto a new section to read as follows:

3 1. *A governmental entity may apply in writing to the*
4 *Department for an easement or a license or permit for an*
5 *encroachment concerning any portion of highway rights-of-way*
6 *owned or controlled by the Department that the governmental*



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1 *entity wishes to use for a public purpose, including, without*
2 *limitation, a public work, public building, public road or public*
3 *highway. If the Department makes a form available for such*
4 *applications, the application must be submitted on that form.*

5 *2. Unless otherwise agreed to pursuant to subsection 6, the*
6 *Department shall, within 60 days after receiving such an*
7 *application, consider the public convenience and necessity of the*
8 *easement or the license or permit for an encroachment and*
9 *approve or deny the application. If the Department fails to approve*
10 *or deny the application within that period, the application shall be*
11 *deemed approved and the applicant, upon notifying the*
12 *Department, may act in accordance with the terms of the easement*
13 *or the license or permit for the encroachment set forth in the*
14 *application.*

15 *3. If the Department conditionally denies an application for*
16 *an easement or a license or permit for an encroachment within 60*
17 *days after receiving such an application or within the period*
18 *agreed to pursuant to subsection 6, the Department shall furnish*
19 *to the applicant in writing a detailed explanation of all reasons for*
20 *the denial and shall specify any actions the applicant may take*
21 *that would result in the approval of the application.*

22 *4. If the Department approves or denies an application for an*
23 *easement or a license or permit for an encroachment within 60*
24 *days after receiving such an application or within the period*
25 *agreed to pursuant to subsection 6, the Department shall issue a*
26 *final written decision with regard to the application and send a*
27 *copy of the final written decision to the applicant. If the*
28 *application is denied, the Department shall include in its final*
29 *written decision all reasons for the denial. The Department is*
30 *estopped in all further proceedings concerning the application*
31 *from asserting any reason for the denial of the application that is*
32 *not included in its final written decision.*

33 *5. If the final written decision of the Department denies the*
34 *application for an easement or a license or permit for an*
35 *encroachment, the applicant may appeal the decision to the district*
36 *court in which the property that is the subject of the application is*
37 *situated. A judicial review conducted pursuant to this section must*
38 *be limited to a determination of whether the denial was arbitrary,*
39 *capricious or otherwise characterized by an abuse of discretion*
40 *and must be conducted in accordance with the procedures set*
41 *forth in chapter 233B of NRS for reviewing a final decision of an*
42 *agency.*

43 *6. Any time limit specified in this section or otherwise*
44 *applicable to any proceeding pursuant to this section may be*



1 *extended by written agreement of the applicant and the*
2 *Department.*
3 *7. If the Department approves an application for an easement*
4 *or a license or permit for an encroachment or if the district court*
5 *orders the approval of the application, the Department shall not*
6 *thereafter charge the applicant any fee for the use of the property*
7 *that is the subject of the easement or the license or permit for the*
8 *encroachment so long as the property is used for a public purpose,*
9 *including, without limitation, a public work, public building,*
10 *public road or public highway.*

