

Assembly Bill No. 488—Committee on Natural Resources,
Agriculture, and Mining

CHAPTER.....

AN ACT relating to ditches; requiring the State Engineer to investigate and prepare a report concerning certain complaints concerning possible criminal acts involving ditches; requiring a copy of a subdivider's tentative map to be forwarded to the owner of record of land to which an irrigation ditch is appurtenant 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:

Section 1. Chapter 536 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In a county whose population is less than 100,000, the State Engineer shall, upon request of the owner of a ditch or a local governmental entity in whose jurisdiction a ditch is located, investigate a complaint involving a possible violation of the provisions of NRS 536.120 which involves the ditch if the ditch is located:

(a) Within the boundaries of an adjudicated stream system for which the State Engineer has appointed an engineer to work in a supervisory capacity pursuant to NRS 533.275; and

(b) Outside the boundaries of an irrigation district organized pursuant to chapter 539 of NRS.

2. For any complaint investigated pursuant to subsection 1, the State Engineer shall:

(a) Prepare a report concerning the investigation, including, without limitation, the condition of the ditch; and

(b) Make the report available to the person or local governmental entity that requested the investigation.

3. A person or local governmental entity that obtains a report pursuant to subsection 2 may submit a copy of the report with any report of a violation of the provisions of NRS 536.120 that is reported to a law enforcement agency.

Sec. 2. Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:

1. In any county whose population is less than 100,000, when any subdivider proposes to subdivide land which is located outside the boundaries of any irrigation district organized pursuant to chapter 539 of NRS on which an irrigation ditch is located, the planning commission or its designated representative, or if there is no planning commission, the clerk or other designated representative of the governing body, shall forward a copy of the

subdivider's tentative map, by certified or registered mail, to the last known address of the owner of record of any land to which the irrigation ditch is appurtenant that is on file in the office of the county assessor pursuant to this section. An owner of record who receives a copy of a subdivider's tentative map shall, within 30 days after receiving the map, review and comment in writing upon the map to the planning commission or governing body. The planning commission or governing body shall take those comments into consideration before approving the tentative map.

2. A subdivider whose tentative map is provided to an owner of record pursuant to this section is responsible for any costs incurred by the planning commission or its designated representative, or by the clerk or other designated representative of the governing body, in identifying the owner of record and providing a copy of the tentative map to the owner of record.

Sec. 3. NRS 278.010 is hereby amended to read as follows:

278.010 As used in NRS 278.010 to 278.630, inclusive, *and section 2 of this act*, unless the context otherwise requires, the words and terms defined in NRS 278.0105 to 278.0195, inclusive, have the meanings ascribed to them in those sections.

Sec. 4. NRS 278.320 is hereby amended to read as follows:

278.320 1. "Subdivision" means any land, vacant or improved, which is divided or proposed to be divided into five or more lots, parcels, sites, units or plots, for the purpose of any transfer ~~or~~ *or* development , or any proposed transfer or development , unless exempted by one of the following provisions:

(a) The term "subdivision" does not apply to any division of land which is subject to the provisions of NRS 278.471 to 278.4725, inclusive.

(b) Any joint tenancy or tenancy in common shall be deemed a single interest in land.

(c) Unless a method of disposition is adopted for the purpose of evading this chapter or would have the effect of evading this chapter, the term "subdivision" does not apply to:

(1) Any division of land which is ordered by any court in this state or created by operation of law;

(2) A lien, mortgage, deed of trust or any other security instrument;

(3) A security or unit of interest in any investment trust regulated under the laws of this state or any other interest in an investment entity;

(4) Cemetery lots; or

(5) An interest in oil, gas, minerals or building materials, which are now or hereafter severed from the surface ownership of real property.

2. A common-interest community consisting of five or more units shall be deemed to be a subdivision of land within the meaning of this section, but need only comply with NRS 278.326 to 278.460, inclusive, *and section 2 of this act*, and 278.473 to 278.490, inclusive.

3. The board of county commissioners of any county may exempt any parcel or parcels of land from the provisions of NRS 278.010 to 278.630, inclusive, *and section 2 of this act* if:

(a) The land is owned by a railroad company or by a nonprofit corporation organized and existing pursuant to the provisions of chapter 81 or 82 of NRS which is an immediate successor in title to a railroad company, and the land was in the past used in connection with any railroad operation; and

(b) Other persons now permanently reside on the land.

4. This chapter does not apply to the division of land for agricultural purposes into parcels of more than 10 acres, if a street, road, or highway opening or widening or easement of any kind is not involved.

Sec. 5. NRS 278.330 is hereby amended to read as follows:

278.330 1. The initial action in connection with the making of any subdivision is the preparation of a tentative map.

2. The subdivider shall file copies of ~~[such]~~ *the* map with the planning commission or its designated representative, or with the clerk of the governing body if there is no planning commission, together with a filing fee in an amount determined by the governing body.

3. The commission, its designated representative, the clerk or other designated representative of the governing body or, when authorized by the governing body, the subdivider or any other appropriate agency shall distribute copies of the map and any accompanying data to all state and local agencies *and persons* charged with reviewing the proposed subdivision.

4. If there is no planning commission, the clerk of the governing body shall submit the tentative map to the governing body at its next regular meeting.

5. Except as otherwise provided by subsection 6, if there is a planning commission, it shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

after accepting as a complete application a tentative map, recommend approval, conditional approval or disapproval of the map in a written report filed with the governing body.

6. If the governing body has authorized the planning commission to take final action on a tentative map, the planning commission shall:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

after accepting as a complete application a tentative map, approve, conditionally approve or disapprove the tentative map in the manner provided for in NRS 278.349. The planning commission shall file its written decision with the governing body.

Sec. 6. NRS 278.349 is hereby amended to read as follows:

278.349 1. Except as otherwise provided in subsection 2, the governing body, if it has not authorized the planning commission to take final action, shall, by an affirmative vote of a majority of all the members, approve, conditionally approve or disapprove a tentative map filed pursuant to NRS 278.330:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

after receipt of the planning commission's recommendations.

2. If there is no planning commission, the governing body shall approve, conditionally approve or disapprove a tentative map:

(a) In a county whose population is 400,000 or more, within 45 days; or

(b) In a county whose population is less than 400,000, within 60 days,

after the map is filed with the clerk of the governing body.

3. The governing body, or planning commission if it is authorized to take final action on a tentative map, shall consider:

(a) Environmental and health laws and regulations concerning water and air pollution, the disposal of solid waste, facilities to supply water, community or public sewage disposal and, where applicable, individual systems for sewage disposal;

(b) The availability of water which meets applicable health standards and is sufficient in quantity for the reasonably foreseeable needs of the subdivision;

(c) The availability and accessibility of utilities;

(d) The availability and accessibility of public services such as schools, police protection, transportation, recreation and parks;

(e) Conformity with the zoning ordinances and master plan, except that if any existing zoning ordinance is inconsistent with the master plan, the zoning ordinance takes precedence;

(f) General conformity with the governing body's master plan of streets and highways;

(g) The effect of the proposed subdivision on existing public streets and the need for new streets or highways to serve the subdivision;

(h) Physical characteristics of the land such as floodplain, slope and soil;

(i) The recommendations and comments of those entities *and persons* reviewing the tentative map pursuant to NRS 278.330 to 278.348, inclusive ~~§~~, *and section 2 of this act*; and

(j) The availability and accessibility of fire protection, including, but not limited to, the availability and accessibility of water and services for the prevention and containment of fires, including fires in wild lands.

4. The governing body or planning commission shall, by an affirmative vote of a majority of all the members, make a final disposition of the tentative map. Any disapproval or conditional approval must include a statement of the reason for that action.

Sec. 7. NRS 278.590 is hereby amended to read as follows:

278.590 1. It is unlawful for any person to contract to sell, to sell or to transfer any subdivision or any part thereof, or land divided pursuant to a parcel map or map of division into large parcels, unless:

(a) The required map thereof, in full compliance with the appropriate provisions of NRS 278.010 to 278.630, inclusive, *and section 2 of this act*, and any local ordinance, has been recorded in the office of the recorder of each county in which the subdivision or land divided is located; or

(b) The person is contractually obligated to record the required map ~~§~~ before title is transferred or possession is delivered, whichever is earlier, as provided in paragraph (a).

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor and is liable for a civil penalty of not more than \$300 for each lot or parcel sold or transferred.

3. This section does not bar any legal, equitable or summary remedy to which any aggrieved municipality or other political subdivision, or any person, may otherwise be entitled, and any such municipality or other political subdivision or person may file suit in the district court of the county in which any property attempted to be divided or sold in violation of any provision of NRS 278.010 to 278.630, inclusive, *and section 2 of this act*, is located to restrain or enjoin any attempted or proposed division or transfer in violation of those sections.

Sec. 8. NRS 278.600 is hereby amended to read as follows:

278.600 Any county recorder who records a map contrary to the provisions of NRS 278.010 to 278.630, inclusive, *and section 2 of this act*, or of any local ordinance adopted pursuant thereto is guilty of a misdemeanor.

Sec. 9. This act becomes effective on July 1, 2003.