

ASSEMBLY BILL NO. 485—COMMITTEE ON JUDICIARY

MARCH 28, 2005

Referred to Committee on Judiciary

SUMMARY—Revises provisions governing gaming establishments. (BDR 41-1376)

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 gaming; revising provisions governing the approval of a nonrestricted license for an establishment that is not a resort hotel in certain counties; revising provisions governing the moving of the location of an establishment and the transferring of its license to another location; revising provisions governing the designation of gaming enterprise districts; 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 463 of NRS is hereby amended by adding
2 thereto the provisions set forth as sections 1.3 and 1.5 of this act.

3 **Sec. 1.3. 1.** *After a county, city or town makes a decision*
4 *on a petition filed pursuant to NRS 463.3086:*

5 *(a) The petitioner may appeal to the arbitrator if the petition is*
6 *denied; or*

7 *(b) An aggrieved party may appeal to the arbitrator if the*
8 *petition is granted.*

9 **2.** *A notice of appeal must be filed with the arbitrator not*
10 *later than 10 days after the date of the decision on the petition.*

11 **3.** *The arbitrator may hear only one appeal from the decision*
12 *on the petition.*

13 **4.** *The arbitrator shall determine whether a person who files*
14 *a notice of appeal is an aggrieved party. If more than one person*



1 *files a notice of appeal, the arbitrator shall consolidate the appeals*
2 *of all persons who the arbitrator determines are aggrieved parties.*

3 5. *If the petitioner files a notice of appeal, the county, city or*
4 *town that denied the petition shall be deemed to be the opposing*
5 *party, and the county, city or town may elect to defend its decision*
6 *before the arbitrator.*

7 6. *If a notice of appeal is filed by the petitioner or an*
8 *aggrieved party, the petitioner shall request the court reporter to*
9 *prepare a transcript of the report of the hearing on the petition,*
10 *and the petitioner shall pay the costs of preparing the transcript.*

11 7. *The arbitrator shall consider the appeal not later than 30*
12 *days after the date the notice of appeal is filed. The arbitrator may*
13 *accept written briefs or hear oral arguments, or both. The*
14 *arbitrator shall not receive additional evidence and shall confine*
15 *his review to the record. In reviewing the record, the arbitrator*
16 *shall not substitute his judgment for that of the county, city or*
17 *town. The arbitrator may reverse the decision of the county, city or*
18 *town only if:*

19 (a) *The county, city or town failed to comply with the*
20 *requirements pertaining to notice and hearing of the petition in*
21 *accordance with the provisions of subsections 3, 4 and 5 of NRS*
22 *463.3086;*

23 (b) *The county, city or town granted the petition without*
24 *complying with the provisions of subsection 7, 8 or 9 of NRS*
25 *463.3086; or*

26 (c) *There is no evidence in the record to support the decision*
27 *of the county, city or town.*

28 8. *The arbitrator shall issue his decision and written findings*
29 *not later than 30 days after the appeal is heard or is submitted for*
30 *consideration without oral argument. The arbitrator shall affirm*
31 *or reverse the decision of the county, city or town and shall grant*
32 *or deny the petition in accordance with the affirmance or reversal.*

33 9. *Any party to the appeal before the arbitrator may appeal*
34 *the decision of the arbitrator to grant or deny the petition to the*
35 *district court. A party must file such an appeal not later than 20*
36 *days after the date of the decision of the arbitrator.*

37 10. *The arbitrator may take any action that is necessary to*
38 *carry out the provisions of this section.*

39 11. *As used in this section, "arbitrator" means an arbitrator*
40 *appointed by the arbitration commissioner in accordance with the*
41 *provisions of the Nevada Arbitration Rules.*

42 **Sec. 1.5. 1.** *If a county, city or town decides to authorize an*
43 *increase in the height or size of a proposed establishment, an*
44 *aggrieved party may appeal the decision to the arbitrator.*



1 2. A notice of appeal must be filed with the arbitrator not
2 later than 10 days after the date of the decision.

3 3. The arbitrator may hear only one appeal from the decision.

4 4. The arbitrator shall determine whether a person who files
5 a notice of appeal is an aggrieved party. If more than one person
6 files a notice of appeal, the arbitrator shall consolidate the appeals
7 of all persons who the arbitrator determines are aggrieved parties.

8 5. If an aggrieved party files a notice of appeal, the proposed
9 establishment and the county, city or town that authorized the
10 increase in the height or size of the proposed establishment shall
11 be deemed to be the opposing parties, and the proposed
12 establishment and the county, city or town may elect to defend the
13 decision before the arbitrator.

14 6. If a notice of appeal is filed by an aggrieved party, the
15 proposed establishment shall request the court reporter to prepare
16 a transcript of the report of the hearing on the decision, and the
17 proposed establishment shall pay the costs of preparing the
18 transcript.

19 7. The arbitrator shall consider the appeal not later than 30
20 days after the date the notice of appeal is filed. The arbitrator may
21 accept written briefs or hear oral arguments, or both. The
22 arbitrator shall not receive additional evidence and shall confine
23 his review to the record. In reviewing the record, the arbitrator
24 shall not substitute his judgment for that of the county, city or
25 town. The arbitrator may reverse the decision of the county, city or
26 town only if there is not substantial evidence in the record to
27 support the decision of the county, city or town.

28 8. The arbitrator shall issue his decision and written findings
29 not later than 30 days after the appeal is heard or is submitted for
30 consideration without oral argument. The arbitrator shall affirm
31 or reverse the decision of the county, city or town.

32 9. Any party to the appeal before the arbitrator may appeal
33 the decision of the arbitrator to the district court. A party must file
34 such an appeal not later than 20 days after the date of the decision
35 of the arbitrator.

36 10. The arbitrator may take any action that is necessary to
37 carry out the provisions of this section.

38 11. As used in this section, "arbitrator" means an arbitrator
39 appointed by the arbitration commissioner in accordance with the
40 provisions of the Nevada Arbitration Rules.

41 **Sec. 1.7.** NRS 463.021 is hereby amended to read as follows:

42 463.021 1. The Gaming Policy Committee, consisting of the
43 Governor as Chairman and 10 members, is hereby created.

44 2. The Committee must be composed of:



1 (a) One member of the Commission, designated by the
2 Chairman of the Commission;

3 (b) One member of the Board, designated by the Chairman of
4 the Board;

5 (c) One member of the Senate appointed by the Legislative
6 Commission;

7 (d) One member of the Assembly appointed by the Legislative
8 Commission;

9 (e) One enrolled member of a Nevada Indian tribe appointed by
10 the Inter-Tribal Council of Nevada, Inc.; and

11 (f) Five members appointed by the Governor for terms of 2
12 years as follows:

13 (1) Two representatives of the general public;

14 (2) Two representatives of nonrestricted gaming licensees;
15 and

16 (3) One representative of restricted gaming licensees.

17 3. Members who are appointed by the Governor serve at the
18 pleasure of the Governor.

19 4. Members who are Legislators serve terms beginning when
20 the Legislature convenes and continuing until the next regular
21 session of the Legislature is convened.

22 5. ~~[Except as otherwise provided in subsection 6, the]~~ *The*
23 Governor may call meetings of the Gaming Policy Committee for
24 the exclusive purpose of discussing matters of gaming policy. The
25 recommendations concerning gaming policy made by the
26 Committee pursuant to this subsection are advisory and not binding
27 on the Board or the Commission in the performance of their duties
28 and functions.

29 ~~[6. An appeal filed pursuant to NRS 463.3088 may be
30 considered only by a Review Panel of the Committee. The Review
31 Panel must consist of the members of the Committee who are
32 identified in paragraphs (a), (b) and (e) of subsection 2 and
33 subparagraph (1) of paragraph (f) of subsection 2.]~~

34 **Sec. 2.** NRS 463.1605 is hereby amended to read as follows:

35 463.1605 1. Except as otherwise provided in subsection 3,
36 the Commission shall not approve a nonrestricted license, other than
37 for the operation of a race book or sports pool at an establishment
38 which holds a nonrestricted license to operate both gaming devices
39 and a gambling game, for an establishment in a county whose
40 population is 100,000 or more unless the establishment is a resort
41 hotel.

42 2. A county, city or town may require resort hotels to meet
43 standards in addition to those required by this chapter as a condition
44 of issuance of a gaming license by the county, city or town.



1 3. The Commission may approve a nonrestricted license for an
2 establishment which is not a resort hotel at a new location if ~~the~~ :

3 (a) *The establishment was acquired or displaced pursuant to a*
4 *redevelopment project undertaken by an agency created pursuant to*
5 *NRS 279.382 to 279.685, inclusive ~~it~~, in accordance with a final*
6 *order of condemnation entered before the effective date of this act;*
7 *or*

8 (b) *The establishment was acquired or displaced pursuant to a*
9 *redevelopment project undertaken by an agency created pursuant*
10 *to NRS 279.382 to 279.685, inclusive, in accordance with a final*
11 *order of condemnation entered on or after the effective date of this*
12 *act, and the new location of the establishment is within the same*
13 *redevelopment area as the former location of the establishment.*

14 **Sec. 3.** NRS 463.302 is hereby amended to read as follows:

15 463.302 1. Notwithstanding any other provision of law and
16 except as otherwise provided in this section, the Board may, in its
17 sole and absolute discretion, allow a licensee to move the location of
18 its establishment and transfer its restricted or nonrestricted license
19 to:

20 (a) A location within a redevelopment ~~zone~~ *area created*
21 *pursuant to chapter 279 of NRS*, if the redevelopment ~~zone~~ *area*
22 is located in the same local governmental jurisdiction as the existing
23 location of the establishment; ~~or~~

24 (b) Any other location, if the move and transfer are necessary
25 because the existing location of the establishment has been taken by
26 the State or a local government through condemnation or eminent
27 domain ~~it~~ *in accordance with a final order of condemnation*
28 *entered before the effective date of this act; or*

29 (c) *In any county other than a county whose population is*
30 *100,000 or more but less than 400,000, any other location within*
31 *the same local governmental jurisdiction as the existing location*
32 *of the establishment, if the move and transfer are necessary*
33 *because the existing location of the establishment has been taken*
34 *by the State or a local government through condemnation or*
35 *eminent domain in accordance with a final order of condemnation*
36 *entered on or after the effective date of this act.*

37 2. The Board shall not approve a move and transfer pursuant to
38 subsection 1 unless, before the move and transfer, the licensee
39 receives all necessary approvals from the local government having
40 jurisdiction over the location to which the establishment wants to
41 move and transfer its license.

42 3. Before a move and transfer pursuant to subsection 1, the
43 Board may require the licensee to apply for a new license pursuant
44 to the provisions of this chapter.



1 4. The provisions of subsection 1 do not apply to an
2 establishment that is:

3 (a) A resort hotel; or

4 (b) Located in a *county*, city *or town* which has established one
5 or more gaming enterprise districts.

6 **Sec. 3.5.** NRS 463.3074 is hereby amended to read as follows:

7 463.3074 The provisions of NRS 463.3072 to 463.3094,
8 inclusive, *and sections 1.3 and 1.5 of this act* apply to
9 establishments and gaming enterprise districts that are located in a
10 county whose population is 400,000 or more.

11 **Sec. 4.** NRS 463.3086 is hereby amended to read as follows:

12 463.3086 1. If the location of a proposed establishment:

13 (a) Is not within the Las Vegas Boulevard gaming corridor or
14 the rural Clark County gaming zone; and

15 (b) Is not within a gaming enterprise district,

16 ➤ the Commission shall not approve a nonrestricted license for the
17 establishment unless the location of the establishment is designated
18 a gaming enterprise district pursuant to this section.

19 2. If a person is proposing to operate an establishment with a
20 nonrestricted license and the location of the proposed establishment:

21 (a) Is not within the Las Vegas Boulevard gaming corridor or
22 the rural Clark County gaming zone; and

23 (b) Is not within a gaming enterprise district,

24 ➤ the person may petition the county, city or town having
25 jurisdiction over the location of the proposed establishment to
26 designate the location of the proposed establishment a gaming
27 enterprise district pursuant to this section.

28 3. If a person files a petition pursuant to subsection 2, the
29 county, city or town shall, at least 10 days before the date of the
30 hearing on the petition, mail a notice of the hearing to:

31 (a) Each owner of real property whose property line is less than
32 2,500 feet from the property line of the proposed establishment;

33 (b) The owner, as listed on the county assessor's records, of
34 each of the 30 separately owned parcels nearest the proposed
35 establishment, to the extent this notice does not duplicate the notice
36 given pursuant to paragraph (a);

37 (c) Each tenant of a mobile home park whose property line is
38 less than 2,500 feet from the property line of the proposed
39 establishment; and

40 (d) Any advisory board that represents one or more owners of
41 real property or tenants of a mobile home park whose property line
42 is less than 2,500 feet from the property line of the proposed
43 establishment.

44 ➤ The notice must be written in language that is easy to understand
45 and must set forth the date, time, place and purpose of the hearing



1 and contain a physical description or map of the location of the
2 proposed establishment. The petitioner shall pay the costs of
3 providing the notice that is required by this subsection.

4 4. Any interested person is entitled to be heard at the hearing
5 on the petition.

6 5. The county, city or town shall cause the hearing on the
7 petition to be reported by a court reporter who is certified pursuant
8 to chapter 656 of NRS. The petitioner shall pay the costs of having
9 the hearing reported.

10 6. At the hearing, the petitioner must prove by clear and
11 convincing evidence that:

12 (a) The roads, water, sanitation, utilities and related services to
13 the location are adequate;

14 (b) The proposed establishment will not unduly impact public
15 services, consumption of natural resources and the quality of life
16 enjoyed by residents of the surrounding neighborhoods;

17 (c) The proposed establishment will enhance, expand and
18 stabilize employment and the local economy;

19 (d) The proposed establishment will be located in an area
20 planned or zoned for that purpose pursuant to NRS 278.010 to
21 278.630, inclusive;

22 (e) The proposed establishment will not be detrimental to the
23 health, safety or general welfare of the community or be
24 incompatible with the surrounding area;

25 (f) On the date that the petition was filed, the property line of the
26 proposed establishment was not less than:

27 (1) Five hundred feet from the property line of a developed
28 residential district; and

29 (2) Fifteen hundred feet from the property line of a public
30 school, private school or structure used primarily for religious
31 services or worship; ~~and~~

32 (g) The proposed establishment will not adversely affect:

33 (1) A developed residential district; or

34 (2) A public school, private school or structure used
35 primarily for religious services,

36 whose property line is within 2,500 feet from the property line of
37 the proposed establishment ~~and~~; *and*

38 *(h) The proposed establishment will be located within a*
39 *gaming enterprise district that will be located entirely within the*
40 *boundaries of a master planned community.*

41 7. A three-fourths vote of the governing body of the county,
42 city or town is required to grant the petition to designate the location
43 of the proposed establishment a gaming enterprise district pursuant
44 to this section.



1 8. *If the governing body of the county, city or town grants the*
2 *petition to designate the location of the proposed establishment a*
3 *gaming enterprise district, the governing body shall, at the hearing*
4 *held pursuant to this section, establish limitations on the height*
5 *and size of the proposed establishment.*

6 9. A county, city or town that denies a petition submitted
7 pursuant to this section shall not consider another petition
8 concerning the same location or any portion thereof for 1 year after
9 the date of the denial.

10 ~~9-~~ 10. As used in this section:

11 (a) "Developed residential district" means a parcel of land zoned
12 primarily for residential use in which at least one completed
13 residential unit has been constructed on the date that the petitioner
14 files a petition pursuant to this section.

15 (b) "*Master planned community*" means a contiguous area of
16 land that:

17 (1) *Contains at least 750 acres owned or controlled by a*
18 *single entity;*

19 (2) *Contains a mix of land uses that include residential,*
20 *commercial, employment and public uses;*

21 (3) *Contains not more than one gaming enterprise district*
22 *and not more than one establishment that holds a nonrestricted*
23 *license; and*

24 (4) *Has not more than 75 acres designated as a gaming*
25 *enterprise district.*

26 (c) "Private school" has the meaning ascribed to it in
27 NRS 394.103.

28 ~~(e)~~ (d) "Public school" has the meaning ascribed to it in
29 NRS 385.007.

30 **Sec. 5.** NRS 463.3088 is hereby repealed.

31 **Sec. 6.** 1. Notwithstanding the provisions of paragraph (b) of
32 subsection 4 of NRS 463.302, as amended by section 3 of this act,
33 the Nevada Gaming Control Board may, in its sole and absolute
34 discretion, allow a licensee to move the location of its establishment
35 and transfer its restricted or nonrestricted license pursuant to the
36 provisions of NRS 463.302, as amended by section 3 of this act, if:

37 (a) The establishment holds a nonrestricted license on the
38 effective date of this act but is not a resort hotel;

39 (b) The establishment is located in a county whose population is
40 400,000 or more and is located within a redevelopment area of the
41 county on the effective date of this act;

42 (c) The establishment is acquired, displaced or relocated
43 pursuant to a redevelopment project undertaken by an agency
44 created pursuant to NRS 279.382 to 279.685, inclusive;



1 (d) The establishment is to be relocated within the
2 redevelopment area of the county to a proposed location that is
3 within 200 feet of the existing location of the establishment;

4 (e) The establishment will have a casino area that is less than or
5 equal to the size of the casino area of the existing establishment; and

6 (f) The redevelopment agency and the board of county
7 commissioners approve the move of the location of the
8 establishment at a public hearing that is conducted in compliance
9 with the provisions of subsection 2.

10 2. A public hearing to consider the move of the location of an
11 establishment must comply with the following requirements:

12 (a) At least 10 days before the date of the public hearing, a
13 notice of the hearing must be mailed to:

14 (1) Each owner of real property whose property line is less
15 than 2,500 feet from the property line of the proposed location of the
16 establishment;

17 (2) The owner, as listed on the county assessor's records, of
18 each of the 30 separately owned parcels nearest the proposed
19 location of the establishment, to the extent this notice does not
20 duplicate the notice given pursuant to any other provision of this
21 paragraph;

22 (3) Each tenant of a mobile home park whose property line is
23 less than 2,500 feet from the property line of the proposed location
24 of the establishment; and

25 (4) Any advisory board that represents one or more owners
26 of real property or tenants of a mobile home park whose property
27 line is less than 2,500 feet from the property line of the proposed
28 location of the establishment.

29 (b) The notice mailed pursuant to paragraph (a) must be written
30 in language that is easy to understand and must set forth the date,
31 time, place and purpose of the public hearing and contain a physical
32 description or map of the proposed location of the establishment.

33 (c) The licensee shall pay the costs of providing the notice that
34 is required pursuant to paragraph (a).

35 (d) Any interested person is entitled to be heard at the public
36 hearing.

37 **Sec. 7.** 1. The amendatory provisions of section 4 of this act
38 do not apply to an establishment that holds a nonrestricted license
39 for a resort hotel and all parcels of land that are adjacent to the
40 property line of the establishment or adjacent to a street or highway
41 that is adjacent to the property line of such an establishment, if such
42 parcels are owned or leased by the same person or entity, or any
43 affiliate of the person or entity, which owns or leases the property
44 on which the establishment is located.



- 1 2. After a county, city or town makes a decision on a petition
2 filed pursuant to NRS 463.3086, as amended by section 4 of this act,
3 by an establishment described in subsection 1:
4 (a) If the petition is denied, the petitioner may appeal the
5 decision of the county, city or town in accordance with the
6 provisions of section 1.3 of this act; or
7 (b) If the petition is granted, an aggrieved party may appeal the
8 decision of the county, city or town in accordance with the
9 provisions of section 1.3 of this act.
10 **Sec. 8.** This act becomes effective upon passage and approval.

TEXT OF REPEALED SECTION

463.3088 Gaming enterprise district: Procedure for appealing denial or grant of petition to designate location outside of Las Vegas Boulevard gaming corridor and rural Clark County gaming zone.

1. After a county, city or town makes a decision on a petition filed pursuant to NRS 463.3086:
- (a) The petitioner may appeal to the Committee if the petition is denied; or
- (b) An aggrieved party may appeal to the Committee if the petition is granted.
2. A notice of appeal must be filed with the Committee not later than 10 days after the date of the decision on the petition.
3. The Committee may hear only one appeal from the decision on the petition.
4. The Committee shall determine whether a person who files a notice of appeal is an aggrieved party. If more than one person files a notice of appeal, the Committee shall consolidate the appeals of all persons who the Committee determines are aggrieved parties.
5. If the petitioner files a notice of appeal, the county, city or town that denied the petition shall be deemed to be the opposing party, and the county, city or town may elect to defend its decision before the Committee.
6. If a notice of appeal is filed by the petitioner or an aggrieved party, the petitioner shall request the court reporter to prepare a transcript of the report of the hearing on the petition, and the petitioner shall pay the costs of preparing the transcript.
7. The Committee shall consider the appeal not later than 30 days after the date the notice of appeal is filed. The Committee may accept written briefs or hear oral arguments, or both. The



Committee shall not receive additional evidence and shall confine its review to the record. In reviewing the record, the Committee may substitute its judgment for that of the county, city or town and may make its own determinations as to the sufficiency and weight of the evidence on all questions of fact or law.

8. The Committee shall issue its decision and written findings not later than 30 days after the appeal is heard or is submitted for consideration without oral argument. The Committee shall affirm or reverse the decision of the county, city or town and shall grant or deny the petition in accordance with its affirmance or reversal.

9. Any party to the appeal before the Committee may appeal the decision of the Committee to grant or deny the petition to the district court. A party must file such an appeal not later than 20 days after the date of the decision of the Committee.

10. The Committee may take any action that is necessary to carry out the provisions of this section. Any action that is taken by the Committee pursuant to this section must be approved by a majority vote of the membership of the Committee.

11. As used in this section, "Committee" means the Review Panel of the Gaming Policy Committee as provided in subsection 6 of NRS 463.021.



