

ASSEMBLY BILL NO. 87—ASSEMBLYMEN
NGUYEN AND ROBERTS

FEBRUARY 2, 2021

Referred to Committee on Government Affairs

SUMMARY—Makes various changes to provisions governing the vacation or abandonment of certain easements. (BDR 22-460)

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 land use planning; authorizing cities and counties to establish a simplified procedure for the vacation and abandonment of certain easements; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law sets forth a procedure for the vacation or abandonment of streets
2 and easements owned by a city or county. Existing law further authorizes the
3 governing body of a city or county to establish by ordinance a simplified procedure
4 for the vacation or abandonment of an easement for a public utility owned or
5 controlled by the governing body. (NRS 278.480) This bill authorizes the
6 governing body of a city or county to establish by ordinance a simplified procedure
7 for the vacation or abandonment of any easement owned or controlled by the city or
8 county. This bill also provides that unless the vacation or abandonment of the
9 easement is for a public utility owned or controlled by the governing body, the
10 simplified procedure must: (1) require that a petition be filed with the governing
11 body that requests the vacation or abandonment and contains the notarized
12 signature of each owner of property abutting or underlying the easement; (2)
13 prohibit the vacation or abandonment unless the staff of the city or county makes
14 certain determinations; (3) authorize any person aggrieved by the decision on
15 whether to approve the vacation or abandonment to appeal the decision to the
16 governing body; and (4) provide that the vacation or abandonment is not effective
17 until the order of approval is recorded in the office of the county recorder. Lastly,
18 this bill provides that the simplified procedure does not apply to the vacation or
19 abandonment of any street, drainage easement, sidewalk or other pedestrian right of
20 way.



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

1 **Section 1.** NRS 278.480 is hereby amended to read as follows:

2 278.480 1. Except as otherwise provided in subsections 11
3 and 12, any abutting owner or local government desiring the
4 vacation or abandonment of any street or easement owned by a city
5 or a county, or any portion thereof, shall file a petition in writing
6 with the planning commission or the governing body having
7 jurisdiction.

8 2. The governing body may establish by ordinance a procedure
9 by which, after compliance with the requirements for notification of
10 public hearing set forth in this section, a vacation or abandonment of
11 a street or an easement may be approved in conjunction with the
12 approval of a tentative map pursuant to NRS 278.349.

13 3. A government patent easement which is no longer required
14 for a public purpose may be vacated by:

15 (a) The governing body; or

16 (b) The planning commission, hearing examiner or other
17 designee, if authorized to take final action by the governing body,
18 ↳ without conducting a hearing on the vacation if the applicant for
19 the vacation obtains the written consent of each owner of property
20 abutting the proposed vacation and any utility that is affected by the
21 proposed vacation.

22 4. Except as otherwise provided in ~~{subsection}~~ **subsections** 3
23 **and 11**, if any right-of-way or easement required for a public
24 purpose that is owned by a city or a county is proposed to be
25 vacated, the governing body, or the planning commission, hearing
26 examiner or other designee, if authorized to take final action by the
27 governing body, shall, not less than 10 business days before the
28 public hearing described in subsection 5:

29 (a) Notify each owner of property abutting the proposed
30 abandonment. Such notice must be provided by mail pursuant to a
31 method that provides confirmation of delivery and does not require
32 the signature of the recipient.

33 (b) Cause a notice to be published at least once in a newspaper
34 of general circulation in the city or county, setting forth the extent of
35 the proposed abandonment and setting a date for public hearing.

36 5. Except as otherwise provided in ~~{subsection}~~ **subsections** 6
37 **and 11**, if, upon public hearing, the governing body, or the
38 planning commission, hearing examiner or other designee, is
39 authorized to take final action by the governing body, is satisfied
40 that the public will not be materially injured by the proposed
41 vacation, it shall order the street or easement vacated. The
42 governing body, or the planning commission, hearing examiner or



1 other designee, if authorized to take final action by the governing
2 body, may make the order conditional, and the order becomes
3 effective only upon the fulfillment of the conditions prescribed. An
4 applicant or other person aggrieved by the decision of the planning
5 commission, hearing examiner or other designee may appeal the
6 decision in accordance with the ordinance adopted pursuant to
7 NRS 278.3195.

8 6. In addition to any other applicable requirements set forth in
9 this section, before vacating or abandoning a street, the governing
10 body of the local government having jurisdiction over the street, or
11 the planning commission, hearing examiner or other designee, if
12 authorized to take final action by the governing body, shall provide
13 each public utility and video service provider serving the affected
14 area with written notice that a petition has been filed requesting the
15 vacation or abandonment of the street. After receiving the written
16 notice, the public utility or video service provider, as applicable,
17 shall respond in writing, indicating either that the public utility or
18 video service provider, as applicable, does not require an easement or
19 or that the public utility or video service provider, as applicable,
20 wishes to request the reservation of an easement. If a public utility
21 or video service provider indicates in writing that it wishes to
22 request the reservation of an easement, the governing body of the
23 local government having jurisdiction over the street that is proposed
24 to be vacated or abandoned, or the planning commission, hearing
25 examiner or other designee, if authorized to take final action by the
26 governing body, shall reserve and convey an easement in favor of
27 the public utility or video service provider, as applicable, and shall
28 ensure that such easement is recorded in the office of the county
29 recorder **⌘ before or as a part of the order vacating or abandoning**
30 **the street.**

31 7. The order must be recorded in the office of the county
32 recorder, if all the conditions of the order have been fulfilled, and
33 upon the recordation, title to the street or easement reverts to the
34 abutting property owners in the approximate proportion that the
35 property was dedicated by the abutting property owners or their
36 predecessors in interest. In the event of a partial vacation of a street
37 where the vacated portion is separated from the property from which
38 it was acquired by the unvacated portion of it, the governing body
39 may sell the vacated portion upon such terms and conditions as it
40 deems desirable and in the best interests of the city or county. If the
41 governing body sells the vacated portion, it shall afford the right of
42 first refusal to each abutting property owner as to that part of the
43 vacated portion which abuts his or her property, but no action may
44 be taken by the governing body to force the owner to purchase that
45 portion and that portion may not be sold to any person other than the




1 owner if the sale would result in a complete loss of access to a street
2 from the abutting property.

3 8. If the street was acquired by dedication from the abutting
4 property owners or their predecessors in interest, no payment is
5 required for title to the proportionate part of the street reverted to
6 each abutting property owner. If the street was not acquired by
7 dedication, the governing body may make its order conditional upon
8 payment by the abutting property owners for their proportionate part
9 of the street of such consideration as the governing body determines
10 to be reasonable. If the governing body determines that the vacation
11 has a public benefit, it may apply the benefit as an offset against a
12 determination of reasonable consideration which did not take into
13 account the public benefit.

14 9. If an easement for light and air owned by a city or a county
15 is adjacent to a street vacated pursuant to the provisions of this
16 section, the easement is vacated upon the vacation of the street.

17 10. In any vacation or abandonment of any street owned by a
18 city or a county, or any portion thereof, the governing body, or the
19 planning commission, hearing examiner or other designee, if
20 authorized to take final action by the governing body, may reserve
21 and except therefrom all easements, rights or interests therein which
22 the governing body, or the planning commission, hearing examiner
23 or other designee, if authorized to take final action by the governing
24 body, deems desirable for the use of the city or county.

25 11. The governing body may establish by local ordinance a
26 simplified procedure for the vacation or abandonment of an
27 easement *owned or controlled by the governing body without*
28 *conducting a hearing on the vacation or abandonment. Unless the*
29 *vacation or abandonment of an easement is* for a public utility
30 owned or controlled by the governing body , *the simplified*
31 *procedure must:*

32 *(a) Require that a petition be filed with the governing body*
33 *that requests the vacation or abandonment of the easement and*
34 *contains the notarized signature of each owner of property*
35 *abutting or underlying the easement;*

36 *(b) Prohibit the vacation or abandonment of the easement*
37 *unless the staff of the city or county determines that:*

38 *(1) The easement has been superseded by relocation or is*
39 *no longer needed by the city or county; and*

40 *(2) The vacation or abandonment will not substantially,*
41 *unduly or unreasonably impair the access of any owner of*
42 *property;*

43 *(c) Authorize any applicant or other person aggrieved by a*
44 *decision on whether to approve the vacation or abandonment of*
45 *the easement to appeal the decision to the governing body; and*



1 *(d) Provide that if the vacation or abandonment of the*
2 *easement is approved, the vacation or abandonment is not*
3 *effective until the order of approval is recorded in the office of the*
4 *county recorder.*

5 *↳ A simplified procedure established pursuant to this subsection*
6 *must not apply to the vacation or abandonment of any street,*
7 *drainage easement, sidewalk or other pedestrian right of way.*

8 12. The governing body may establish by local ordinance a
9 simplified procedure for the vacation or abandonment of a street for
10 the purpose of conforming the legal description of real property to a
11 recorded map or survey of the area in which the real property is
12 located. Any such simplified procedure must include, without
13 limitation, the requirements set forth in subsection 6.

14 13. As used in this section:

15 (a) "Government patent easement" means an easement for a
16 public purpose owned by the governing body over land which was
17 conveyed by a patent.

18 (b) "Public utility" has the meaning ascribed to it in
19 NRS 360.815.

20 (c) "Video service provider" has the meaning ascribed to it in
21 NRS 711.151.

