

Amendment No. 85

Senate Amendment to Senate Bill No. 159	(BDR 22-552)
<b>Proposed by:</b> Senate Committee on Government Affairs	
<b>Amends:</b> Summary: Yes Title: Yes Preamble: Add 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) green bold italic underlining is new language proposed 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 that is proposed to be retained in this amendment; and (6) green bold underlining is newly added transitory language.

SJA/HAC



Date: 4/1/2013

S.B. No. 159—Revises provisions relating to the regulation of planning and zoning by local governments. (BDR 22-552)



SENATE BILL NO. 159—SENATORS JONES, KIHUEN, HUTCHISON, SMITH, PARKS; DENIS, FORD, GOICOCHEA, HAMMOND, MANENDO, SEGERBLOM, SPEARMAN AND WOODHOUSE

FEBRUARY 18, 2013

JOINT SPONSORS: ASSEMBLYMEN OSCARSON, BOBZIEN, SWANK, ELLIOT ANDERSON; DONDERO LOOP, FLORES, HEALEY, MARTIN, OHRENSCHALL AND PIERCE

Referred to Committee on Government Affairs

SUMMARY—~~[Revises provisions relating to the regulation of planning and zoning by local governments.]~~ Declares the Legislature’s support for a land exchange near the Red Rock Canyon National Conservation Area. (BDR 22-552)

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; restricting certain powers of local governments with regard to planning, subdivision regulation and zoning of lands located in national conservation areas, national recreation areas and adjacent lands;~~ the Red Rock Canyon National Conservation Area; declaring the Legislature’s support for a land exchange near the Red Rock Canyon National Conservation area; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

~~Senate Bill No. 358 of the 2003 Legislative Session, known as the Red Rock Canyon Conservation Area and Adjacent Lands Act, restricts the authority of local governments to regulate planning, subdividing and zoning of certain lands located in and adjacent to Red Rock Canyon in Clark County. (Chapter 629, Statutes of Nevada 1993, p. 2673, as amended by chapter 105, Statutes of Nevada 2002, pp. 596-98) The Nevada Supreme Court recently ruled that the Act violates Sections 20, 21 and 25 of Article 4 of the Nevada Constitution on the grounds that it: (1) is a “local or special law” that “regulates county . . . business”; and (2) establishes a “system of County . . . government” that is not “uniform throughout the State.” (Attorney General v. Gypsum Resources, 129 Nev. Adv. Op. 4 (2013))~~

This bill ~~revises~~ declares the Legislature’s support for efforts to achieve a land exchange of the Gypsum Mine, which is bounded in part by the Red Rock Canyon National Conservation Area, property for federal land. This bill also urges the Nevada Congressional Delegation to support and facilitate efforts to achieve a land exchange. Finally, this bill declares the Legislature’s support for the transfer of title for the Gypsum Mine property to the federal Bureau of Land Management to be managed as part of the Red Rock Canyon National Conservation Area land Adjacent Lands Act, the

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~~similarly worded Spring Mountains National Recreation Area Act (Chapter 198, Statutes of Nevada 2009, pp. 725-77) and the Nevada Revised Statutes in a manner consistent with the decision in the Gypsum Resources case. Sections 1-4 of this bill restrict generally the authority of any local government in this State to enact certain changes relating to planning, subdividing and zoning of certain lands located within any national conservation area, national recreation area or adjacent lands. Section 5 of this bill repeals certain provisions of the Act which the Court in Gypsum Resources held unconstitutional and also repeals similar provisions of the Spring Mountains National Recreation Area Act.]~~

WHEREAS, The Red Rock Canyon National Conservation Area is a natural wonder within the State of Nevada and an area of unique beauty, scenery and recreational interest; and

WHEREAS, The Gypsum Mine property on Blue Diamond Hill consists of over 3,000 acres of land that is bounded on the north, west, south and portions of the east by the Red Rock Canyon National Conservation Area; and

WHEREAS, The elevation within the Gypsum Mine property reaches approximately 4,950 feet above sea level at its highest point and generally slopes toward the Red Rock Canyon National Conservation Area; and

WHEREAS, Portions of the Gypsum Mine property are visible from locations within the Red Rock Canyon National Conservation Area; and

WHEREAS, The Blue Diamond Cholla is found on undisturbed portions of the Gypsum Mine property; and

WHEREAS, The Gypsum Mine property contains a uniquely high concentration of biological diversity representing the entire Mojave Desert with at least 15 documented species of cacti and succulents; and

WHEREAS, The unincorporated town of Blue Diamond is located approximately 1 mile from the southernmost portion of the Gypsum Mine property; and

WHEREAS, There is strong and vocal opposition to commercial and suburban residential development of the Gypsum Mine property and contentions that such development of the Gypsum Mine property may adversely impact the beauty and serenity of the adjacent Red Rock Canyon National Conservation Area and the quiet enjoyment of the nearby town of Blue Diamond; and

WHEREAS, Land exchanges are an essential tool to secure the objectives of resource management, enhancement and protection, to meet the needs of the communities and to fulfill other public needs; and

WHEREAS, The exploration of the full range of possibilities available to exchange the Gypsum Mine property for federal lands of equal value located away from the Red Rock Canyon National Conservation Area promotes the public interest; now, therefore,

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

**Section 1.** ~~[Chapter 278 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Notwithstanding any other provision of law to the contrary, the powers otherwise conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to the provisions of this section.~~

~~2. With respect to any lands located in a national conservation area, national recreation area or adjacent lands, a local government~~

~~(a) Shall not, in regulating the use of those lands;~~

~~(1) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase can be accomplished, within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;~~

~~(2) Establish any new nonresidential zoning districts, other than for public facilities; or~~

~~(3) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities;~~

~~(b) May regulate other matters, including, without limitation, landscaping, buffering, screening, signage and lighting; and~~

~~(c) Retains all other authority regarding planning, zoning and regulation of uses of land otherwise conferred by this chapter.~~

~~3. The prohibitions set forth in paragraph (a) of subsection 2 do not restrict or limit:~~

~~(a) Any existing or future development or other rights held by any owner of real property that is not part of a national conservation area, national recreation area or adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body, whether reflected in codes, ordinances, permits, agreements or other documents;~~

~~(b) Any future use or development of real property that is not part of a national conservation area, national recreation area or adjacent lands; or~~

~~(c) The authority of any governing body to regulate real property that is not part of a national conservation area, national recreation area or adjacent lands.~~

~~4. As used in this section:~~

~~(a) "Adjacent lands" means any tract of land which is:~~

~~(1) Located not more than 5 miles from any national conservation area; and~~

~~(2) Not located in a Bureau of Land Management disposal area.~~

~~(b) "Bureau of Land Management disposal area" means public land which is managed by the Bureau of Land Management and which has been identified as potentially suitable for disposal in an approved land use plan or through an amendment to an existing plan.~~

~~(c) "National conservation area" means an area designated as a national conservation area by the Congress of the United States.~~

~~(d) "National recreation area" means an area designated as a national recreation area by the Congress of the United States.] (Deleted by amendment.)~~

~~Sec. 2. [Chapter 244 of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. Notwithstanding any other provision of law to the contrary, the powers otherwise conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to the provisions of this section.~~

~~2. With respect to any lands located in a national conservation area, national recreation area or adjacent lands, a local government:~~

~~(a) Shall not, in regulating the use of those lands:~~

~~(1) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase can be accomplished, within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;~~

~~(2) Establish any new nonresidential zoning districts, other than for public facilities; or~~

~~(3) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities;~~

~~(b) May regulate other matters, including, without limitation, landscaping, buffering, screening, signage and lighting; and~~

~~(c) Retains all other authority regarding planning, zoning and regulation of uses of land otherwise conferred by this chapter.~~

~~3. The prohibitions set forth in paragraph (a) of subsection 2 do not restrict or limit:~~

~~(a) Any existing or future development or other rights held by any owner of real property that is not part of a national conservation area, national recreation area or adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body, whether reflected in codes, ordinances, permits, agreements or other documents;~~

~~(b) Any future use or development of real property that is not part of a national conservation area, national recreation area or adjacent lands; or~~

~~(c) The authority of any governing body to regulate real property that is not part of a national conservation area, national recreation area or adjacent lands.~~

~~4. As used in this section:~~

~~(a) "Adjacent lands" has the meaning ascribed to it in paragraph (a) of subsection 4 of section 1 of this act.~~

~~(b) "Bureau of Land Management disposal area" has the meaning ascribed to it in paragraph (b) of subsection 4 of section 1 of this act.~~

~~(c) "National conservation area" has the meaning ascribed to it in paragraph (c) of subsection 4 of section 1 of this act.~~

~~(d) "National recreation area" has the meaning ascribed to it in paragraph (d) of subsection 4 of section 1 of this act. **(Deleted by amendment.)**~~

**Sec. 3.** [Chapter 268 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. Notwithstanding any other provision of law to the contrary, the powers otherwise conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to the provisions of this section.~~

~~2. With respect to any lands located in a national conservation area, national recreation area or adjacent lands, a local government:~~

~~(a) Shall not, in regulating the use of those lands:~~

~~(1) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase can be accomplished, within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;~~

~~(2) Establish any new nonresidential zoning districts, other than for public facilities; or~~

~~(3) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities;~~

~~(b) May regulate other matters, including, without limitation, landscaping, buffering, screening, signage and lighting; and~~

~~(c) Retains all other authority regarding planning, zoning and regulation of uses of land otherwise conferred by this chapter.~~

~~3. The prohibitions set forth in paragraph (a) of subsection 2 do not restrict or limit:~~

~~(a) Any existing or future development or other rights held by any owner of real property that is not part of a national conservation area, national recreation area or adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body, whether reflected in codes, ordinances, permits, agreements or other documents;~~

~~(b) Any future use or development of real property that is not part of a national conservation area, national recreation area or adjacent lands; or~~

~~(c) The authority of any governing body to regulate real property that is not part of a national conservation area, national recreation area or adjacent lands.~~

~~4. As used in this section:~~

~~(a) "Adjacent lands" has the meaning ascribed to it in paragraph (a) of subsection 4 of section 1 of this act.~~

~~(b) "Bureau of Land Management disposal area" has the meaning ascribed to it in paragraph (b) of subsection 4 of section 1 of this act.~~

~~(c) "National conservation area" has the meaning ascribed to it in paragraph (c) of subsection 4 of section 1 of this act.~~

~~(d) "National recreation area" has the meaning ascribed to it in paragraph (d) of subsection 4 of section 1 of this act.~~ (Deleted by amendment.)

Sec. 4. [Chapter 269 of NRS is hereby amended by adding thereto a new section to read as follows:

~~1. Notwithstanding any other provision of law to the contrary, the powers otherwise conferred by this chapter which relate to planning, subdivision regulation and zoning are subordinate to the provisions of this section.~~

~~2. With respect to any lands located in a national conservation area, national recreation area or adjacent lands, a local government:~~

~~(a) Shall not, in regulating the use of those lands:~~

~~(1) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase can be accomplished, within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;~~

~~(2) Establish any new nonresidential zoning districts, other than for public facilities; or~~

~~(3) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities;~~

~~(b) May regulate other matters, including, without limitation, landscaping, buffering, screening, signage and lighting; and~~

~~(c) Retains all other authority regarding planning, zoning and regulation of uses of land otherwise conferred by this chapter.~~

~~3. The prohibitions set forth in paragraph (a) of subsection 2 do not restrict or limit:~~

~~(a) Any existing or future development or other rights held by any owner of real property that is not part of a national conservation area, national recreation area or adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body, whether reflected in codes, ordinances, permits, agreements or other documents;~~

~~(b) Any future use or development of real property that is not part of a national conservation area, national recreation area or adjacent lands; or~~

~~(c) The authority of any governing body to regulate real property that is not part of a national conservation area, national recreation area or adjacent lands.~~

~~4. As used in this section:~~

~~(a) "Adjacent lands" has the meaning ascribed to it in paragraph (a) of subsection 4 of section 1 of this act.~~

~~(b) "Bureau of Land Management disposal area" has the meaning ascribed to it in paragraph (b) of subsection 4 of section 1 of this act.~~

~~(c) "National conservation area" has the meaning ascribed to it in paragraph (c) of subsection 4 of section 1 of this act.~~

1 ~~(d) “National recreation area” has the meaning ascribed to it in paragraph~~  
 2 ~~(d) of subsection 1 of section 1 of this act.] (Deleted by amendment.)~~

3 ~~Sec. 5. [1. NRS 244.154, 268.105, 269.617 and 278.0239 are hereby~~  
 4 ~~repealed.~~

5 ~~2. Sections 6, 7, 8, 9 and 10 of chapter 105, Statutes of Nevada 2003, at pages~~  
 6 ~~596, 597 and 598, and section 8 of chapter 198, Statutes of Nevada 2009, at page~~  
 7 ~~736, are hereby repealed.] (Deleted by amendment.)~~

8 ~~Sec. 5.3. The Legislature hereby finds and declares its support for efforts~~  
 9 ~~to evaluate and consider the full range of options available to achieve a land~~  
 10 ~~exchange of the Gypsum Mine property for federal land.~~

11 ~~Sec. 5.6. The Legislature urges the Nevada Congressional Delegation to~~  
 12 ~~support and facilitate efforts to evaluate and achieve such a land exchange.~~

13 ~~Sec. 5.9. If a land exchange is achieved, the Legislature supports the~~  
 14 ~~transfer of title for the Gypsum Mine property to the Bureau of Land~~  
 15 ~~Management to be managed as part of the Red Rock Canyon National~~  
 16 ~~Conservation Area.~~

17 ~~Sec. 6. This act becomes effective upon passage and approval.~~

~~[HEADLINES OF REPEALED SECTIONS OF NRS AND~~  
~~TEXT OF REPEALED SECTIONS OF STATUTES OF NEVADA]~~

~~[244.154 Planning, subdivision regulation and zoning; County’s powers~~  
~~subordinate to limits upon development established in certain geographical~~  
~~regions by certain state acts,~~

~~— 268.105 City’s powers subordinate in region for which Spring Mountains~~  
~~National Recreation Area Act and Red Rock Canyon Conservation Area and~~  
~~Adjacent Lands Act establish limits upon development.~~

~~— 269.617 Powers relating to planning, subdivision regulation and zoning~~  
~~subordinate in region for which Spring Mountains National Recreation Area~~  
~~and Red Rock Canyon Conservation Area and Adjacent Lands Act establish~~  
~~limits upon development.~~

~~— 278.0239 Supremacy of limits upon development established by certain~~  
~~special legislative acts.~~

~~— Section 6 of chapter 105, Statutes of Nevada 2003:~~

~~— Sec. 6. Chapter 639, Statutes of Nevada 1993, at page 2673, is~~  
~~hereby amended by adding thereto a new section to be designated as section~~  
~~0.5, immediately preceding section 1, to read as follows:~~

~~— This act shall be known as the Red Rock Canyon Conservation Area~~  
~~and Adjacent Lands Act.~~

~~— Section 7 of chapter 105, Statutes of Nevada 2003:~~

~~— Sec. 7. Chapter 639, Statutes of Nevada 1993, at page 2673, is~~  
~~hereby amended by adding thereto new sections to be designated as~~  
~~sections 1.3 and 1.7, immediately following section 1, to read as follows:~~

~~— Sec. 1.3. As used in this act, unless the context otherwise~~  
~~requires, the words and terms defined in sections 1.7 and 2 of this act~~  
~~have the meanings ascribed to them in those sections.~~

~~— Sec. 1.7. “Adjacent lands” means the following tracts of land:~~

~~1. All of sections 34, 35 and 36, Township 20 South, Range 58 East, MDM;~~

~~2. All of sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35 and 36, Township 21 South, Range 58 East, MDM;~~

~~3. All of sections 1, 2, 3, 10, 11, 12, 13, 14 and 15, Township 22 South, Range 58 East, MDM;~~

~~4. All of sections 31 and 32, Township 20 South, Range 50 East, MDM, with the exception of any lands that are located within the corporate limits of the City of Las Vegas on the effective date of this act;~~

~~5. All of sections 3 and 4, Township 21 South, Range 50 East, MDM, with the exception of any lands that are located within the corporate limits of the City of Las Vegas on the effective date of this act;~~

~~6. All of sections 5, 6, 7, 8, 9, 10 and 11, Township 21 South, Range 59 East, MDM, with the exception of any lands that are located within the Summerlin South unincorporated area on the effective date of this act;~~

~~7. All of sections 15, 16, 17, 18, 19, 20, 21, 22, 27, 28, 29, 30, 31, 32, 33 and 34, Township 21 South, Range 59 East, MDM; and~~

~~8. All of sections 3, 4, 5, 6, 7, 8, 9, 10, 17 and 18, Township 22 South, Range 59 East, MDM.~~

~~Section 8 of chapter 105, Statutes of Nevada 2003:~~

~~Sec. 8. Chapter 629, Statutes of Nevada 1993, at page 2673, is hereby amended by adding thereto new sections to be designated as sections 4.3 and 4.7, immediately following section 4, to read as follows:~~

~~Sec. 4.3. With respect to adjacent lands, a local government:~~

~~1. Shall not, in regulating the use of those lands:~~

~~(a) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act, unless such an increase can be accomplished, within a given area, by the trading of development credits or another mechanism that allows a greater number of residential dwelling units to be constructed in that area without increasing the overall density of residential dwelling units in that area;~~

~~(b) Establish any new nonresidential zoning districts, other than for public facilities; or~~

~~(c) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities.~~

~~2. Shall, at its discretion:~~

~~(a) Regulate matters to include, without limitation, landscaping, buffering, screening, signage and lighting; and~~

~~(b) Retain all other authority regarding planning, zoning and regulation of uses of land.~~

~~Sec. 4.7. The prohibitions set forth in section 4.3 of this act with respect to adjacent lands do not restrict or limit:~~

~~1. Any existing or future development or other rights held by any owner of real property that is not part of those adjacent lands, including, without limitation, all rights, consents and agreements established, enacted, granted or entered into by a governing body,~~



~~whether reflected in codes, ordinances, permits, agreements or other documents;~~

~~2. Any future use or development of real property that is not part of those adjacent lands; or~~

~~3. The authority of any governing body to regulate real property that is not part of those adjacent lands.~~

~~Section 9 of chapter 105, Statutes of Nevada 2003:~~

~~Sec. 9. Section 1 of chapter 629, Statutes of Nevada 1993, at page 2673, is hereby amended to read as follows:~~

~~Section 1. The legislature hereby finds and declares that [this]~~

~~1. This special act which regulates activity in the Red Rock Canyon National Conservation Area and on adjacent lands is necessary because of:~~

~~[1.] (a) The unusual beauty of the Red Rock Canyon National Conservation Area; [and~~

~~2.] (b) The rapidly increasing population and growth in the region around the Red Rock Canyon National Conservation Area [;]; and~~

~~(c) The need to harmonize:~~

~~(1) The retention of the scenic beauty, small town values, historic character, sense of community and recreational opportunities for visitors and residents of the Red Rock Canyon National Conservation Area and adjacent lands; and~~

~~(2) Residential and commercial development within the Red Rock Canyon National Conservation Area and adjacent lands.~~

~~2. The Legislature supports acquisition by the Federal Government of vacant private lands that are:~~

~~(a) Located within and adjacent to the Red Rock Canyon National Conservation Area;~~

~~(b) Located outside of the boundary described in the Clark County Conservation of Public Lands and Natural Resources Act of 2002, Public Law 107-282, November 6, 2002; and~~

~~(c) Essential to the character and value of the Red Rock Canyon National Conservation Area.~~

~~Section 10 of chapter 105, Statutes of Nevada 2003:~~

~~Sec. 10. Section 2 of chapter 629, Statutes of Nevada 1993, at page 2673, is hereby amended to read as follows:~~

~~Sec. 2. [As used in section 1 to 4, inclusive, of this act,] “Red Rock Canyon National Conservation Area” means the area in and around Red Rock Canyon which has been designated as a national conservation area by Congress pursuant to Title 16 of the United States Code.~~

~~Section 8 of chapter 198, Statutes of Nevada 2009:~~

~~Sec. 8. With respect to the Spring Mountains National Recreation Area, a local government:~~

~~1. Shall not, in regulating the use of those lands:~~

~~(a) Increase the number of residential dwelling units allowed by zoning regulations in existence on the effective date of this act;~~

~~(b) Establish any new nonresidential zoning districts, other than for public facilities; or~~

~~(e) Expand the size of any nonresidential zoning district in existence on the effective date of this act, other than for public facilities.~~  
~~2. May regulate matters to include, without limitation, landscaping, buffering, screening, signage and lighting.~~  
~~2. Retains all other authority regarding planning, zoning and regulation of uses of land.~~