



WASHOE COUNTY

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STAFF REPORT

BOARD MEETING DATE: August 22, 2023

DATE: Friday, July 22, 2023

TO: Board of County Commissioners

FROM: Cadence Matijevich, Government Affairs Liaison, Manager's Office
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THROUGH: Eric P. Brown, County Manager

SUBJECT: Discussion and possible adoption of a resolution from the Washoe County Commission in support of introduction and passage by the 116th Congress of a bill that recognizes county authority over historic roads and establishes an administrative adjudication process for determining Washoe County's title to certain rural highways, commonly referred to as R.S. 2477 roads. Manager's Office. (All Commission Districts.)

SUMMARY

The purpose of this agenda item is to provide an opportunity for the Board of County Commissioners to discuss the subject of entitlements to rural county highways established prior to enactment in 1976 of the Federal Land Policy and Management Act (FLMPA) and to consider adoption of a Resolution of Support for introduction and passage by the United States Congress of a bill to provide an expedited administrative process for counties to obtain title to certain rural county highways.

Washoe County Strategic Objective supported by this item: Economic Impacts

PREVIOUS ACTION

None

BACKGROUND

To promote settlement of the American West in the 1800s and provide access to mining deposits located under federal lands, Congress, through Section 8 of the Mining Act of 1866, granted rights-of-way across public lands for the construction of highways. The Mining Act of 1866 was later reenacted and recodified as Revised Statute 2477 (R.S. 2477). R.S. 2477 provided that: "the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted."

In 1976, as part of its enactment of FLMPA, Congress repealed R.S. 2477 but preserved R.S. 2477 rights-of-way that had already been established. R.S. 2477 was self-executing and did not require government approval or public recording of title. This lack of requirement for public recording of title led to uncertainty as to whether rights-of-way

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had in fact been established for most R.S. 2477 highways prior to the passage of FLPMA and this uncertainty continues today.

In the years following passage of the FLPMA, various bills have been introduced in Congress to address the matter of establishing title to R.S. 2477 roads, but to date no such bill has reached passage. On November 20, 2020, H.R. 8798, the “Historic Routes Preservation Act”, was introduced in the 116th Congress by Representative Paul Cook (R-California). The bill was referred to the House Committee on Natural Resources but did not receive a hearing.

On April 28, 2023, the Board of Directors of the Nevada Association of Counties (NV NACO) adopted Resolution 23-02 (Attachment A), expressing support for introduction and passage of the “Historic Routes Preservation Act” (Attachment B). Following the NV NACO action, Commissioner Herman asked that an item be placed on a future agenda of the Board of County Commissioners to consider adoption a of similar resolution.

FISCAL IMPACT

No fiscal impact.

RECOMMENDATION

It is recommended that the Board of County Commissioners discuss and possibly adopt a Resolution of Support from the Washoe County Commission expressing support of introduction and passage by the United States Congress of a bill to establish an administrative adjudication process for establishing title to certain rural county roads.

POSSIBLE MOTION

Should the Board agree with staff’s recommendation, a possible motion would be: “Move to adopt a Resolution of Support from the Washoe County Commission in support of introduction and passage by the United States Congress of a bill to establish an administrative adjudication process for establishing title to certain rural county roads.”

Attachment A – Nevada Association of Counties Resolution 23-02

Attachment B – 116th Congress H.R. 8798 “Historic Routes Preservation Act”