

SENATE BILL NO. 422—SENATOR SCHNEIDER

MARCH 15, 1999

Referred to Committee on Government Affairs

SUMMARY—Requires governing bodies of certain local governments to participate in competitive bidding process to provide certain public services. (BDR 20-1236)

FISCAL NOTE: Effect on Local Government: Yes.
Effect on the State or on Industrial Insurance: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to local governments; providing in skeleton form for the governing bodies of certain local governments to be required to participate in a competitive bidding process to provide certain public services; 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.** NRS 244.188 is hereby amended to read as follows:
- 2 244.188 1. Except as otherwise provided in ~~subsection 3,~~
- 3 ~~subsections 3 and 4,~~ a board of county commissioners may, outside the
- 4 boundaries of incorporated cities and general improvement districts:
- 5 (a) Provide ~~those~~ *the* services *described in NRS 244.187* on an
- 6 exclusive basis or, by ordinance, adopt a regulatory scheme for controlling
- 7 the provision of those services or controlling development in those areas on
- 8 an exclusive basis; or
- 9 (b) Grant an exclusive franchise to any person to provide those services.
- 10 2. If services for the collection and disposal of garbage are provided
- 11 pursuant to subsection 1, the board of county commissioners may, except as
- 12 otherwise provided in subsection ~~3,~~ *4,* require owners of real property
- 13 outside the boundaries of incorporated cities and general improvement
- 14 districts to receive and pay for those services.
- 15 3. *If the board of county commissioners in a county whose*
- 16 *population is 100,000 or more wishes to provide services pursuant to*

1 *paragraph (a) of subsection 1, the board must submit the contract for the*
2 *provision of those services to competitive bidding. A bid submitted by the*
3 *board of county commissioners pursuant to this subsection must be*
4 *prepared by an independent certified public accountant. In preparing the*
5 *bid, the independent certified public accountant shall compare any costs*
6 *the county would incur in providing the services and any costs that a*
7 *person would incur in providing the services that the county would not*
8 *otherwise incur, including, without limitation, the following:*

9 *(a) Any cost to the county to pay for any utilities, personnel,*
10 *equipment, supplies or facilities that would be used to provide the*
11 *services regardless of whether the county acquired them for other*
12 *purposes;*

13 *(b) Any additional cost to the county resulting from an increase in*
14 *interest or penalties that the county must pay to cover the cost of*
15 *providing the services including, without limitation, any interest or*
16 *penalties that the county must pay for:*

17 *(1) Using reserves; and*

18 *(2) Borrowing money.*

19 *(c) Any cost to the county for maintaining additional insurance*
20 *required as a result of increased liability incurred from the provision of*
21 *the services;*

22 *(d) Any additional savings to the county for any facilities or support*
23 *services that would be used to provide the services related to the bid that*
24 *would not otherwise be available to a person who provides those services;*
25 *and*

26 *(e) Any amount that a person who provides the services must pay for*
27 *franchise fees, license fees, taxes and other assessments that the county is*
28 *not required to pay.*

29 *The board of county commissioners shall award the contract for the*
30 *provision of the services to the lowest responsible bidder. If the county*
31 *submits a bid in an amount that is equal to a bid submitted by another*
32 *bidder and both bids would be considered the best bid, the contract must*
33 *be awarded to the other bidder. If the county is awarded the contract, the*
34 *board of county commissioners must provide for an annual audit of the*
35 *provision of the services by the county conducted by an independent*
36 *certified public accountant. The results of the audit are a matter of public*
37 *record. If the audit indicates that the county cannot provide the services*
38 *pursuant to the bid it submitted and the additional cost to the county to*
39 *provide the services is equal to or greater than the difference between the*
40 *county's bid and the bid submitted by the next lowest responsible bidder*
41 *on the contract, the remainder of the contract must be awarded to that*
42 *bidder.*

1 **4.** The board of county commissioners may exercise the authority
2 provided in subsections 1 and 2 , *subject to the limitations in subsection 3,*
3 within the boundaries of a general improvement district if that district:

- 4 (a) Is not authorized to provide those services; and
5 (b) Includes any real property within 7 miles from the boundary of an
6 incorporated city.

7 ~~{4.}~~ **5.** If an exclusive franchise is granted or a regulatory scheme is
8 adopted for the mandatory collection and disposal of garbage and other
9 waste, the initial boundaries of the collection area must be the same as the
10 boundaries of an existing collection area under an exclusive franchise or
11 regulatory scheme.

12 ~~{5.}~~ **6.** The board of county commissioners may expand the boundaries
13 of a collection area established pursuant to subsection ~~{4}~~ **5** after the board
14 has:

15 (a) Conducted preliminary studies and determined that the proposed
16 collection area is economically sound and feasible and promotes the health,
17 safety and general welfare of the inhabitants of the county; and

18 (b) Held a public hearing on the proposed collection area after giving
19 notice of the time and the place of the hearing in a newspaper of general
20 circulation in that county. The notice must include the purpose of the
21 hearing and describe the boundaries of the proposed collection area.

22 **Sec. 2.** NRS 268.083 is hereby amended to read as follows:

23 268.083 **1.** The governing body of an incorporated city may:

24 ~~{1. Provide those}~~

25 **(a) Provide the** services *described in NRS 268.081* on an exclusive
26 basis or, by ordinance, adopt a regulatory scheme for providing those
27 services or controlling development on an exclusive basis within the
28 boundaries of the city; or

29 ~~{2.}~~ **(b)** Grant an exclusive franchise to any person to provide those
30 services within the boundaries of the city.

31 **2.** *If the governing body of an incorporated city in a county whose*
32 *population is 100,000 or more wishes to provide services pursuant to*
33 *paragraph (a) of subsection 1, the governing body must submit the*
34 *contract for the provision of those services to competitive bidding. A bid*
35 *submitted by the governing body pursuant to this subsection must be*
36 *prepared by an independent certified public accountant. In preparing the*
37 *bid, the independent certified public accountant shall compare any costs*
38 *the city would incur in providing the services and any costs that a person*
39 *would incur in providing the services that the city would not otherwise*
40 *incur, including, without limitation, the following:*

41 **(a)** *Any cost to the city to pay for any utilities, personnel, equipment,*
42 *supplies or facilities that would be used to provide the services regardless*
43 *of whether the city acquired them for other purposes;*

1 **(b) Any additional cost to the city resulting from an increase in**
2 **interest or penalties that the city must pay to cover the cost of providing**
3 **the services including, without limitation, any interest or penalties that**
4 **the city must pay for:**

5 **(1) Using reserves; and**

6 **(2) Borrowing money.**

7 **(c) Any cost to the city for maintaining additional insurance required**
8 **as a result of increased liability incurred from the provision of the**
9 **services;**

10 **(d) Any additional savings to the city for any facilities or support**
11 **services that would be used to provide the services related to the bid that**
12 **would not otherwise be available to a person who provides those services;**
13 **and**

14 **(e) Any amount that a person who provides the services must pay for**
15 **franchise fees, license fees, taxes and other assessments that the city is**
16 **not required to pay.**

17 **The governing body shall award the contract for the provision of the**
18 **services to the lowest responsible bidder. If the city submits a bid in an**
19 **amount that is equal to a bid submitted by another bidder and both bids**
20 **would be considered the best bid, the contract must be awarded to the**
21 **other bidder. If the city is awarded the contract, the governing body must**
22 **provide for an annual audit of the provision of the services by the city**
23 **conducted by an independent certified public accountant. The results of**
24 **the audit are a matter of public record. If the audit indicates that the city**
25 **cannot provide the services pursuant to the bid it submitted and the**
26 **additional cost to the city to provide the services is equal to or greater**
27 **than the difference between the city's bid and the bid submitted by the**
28 **next lowest responsible bidder on the contract, the remainder of the**
29 **contract must be awarded to that bidder.**

30 **Sec. 3.** Chapter 269 of NRS is hereby amended by adding thereto the
31 provisions set forth as sections 4 and 5 of this act.

32 **Sec. 4.** **The board of county commissioners may, to provide**
33 **adequate, economical and efficient services to the inhabitants of an**
34 **unincorporated town and to promote the general welfare of those**
35 **inhabitants, displace or limit competition in any of the following areas:**

36 **1. Ambulance service.**

37 **2. Taxicabs and other public transportation, unless regulated in that**
38 **unincorporated town by an agency of the state.**

39 **3. Collection and disposal of garbage and other waste.**

40 **4. Operations at an airport, including, without limitation, the leasing**
41 **of motor vehicles and the licensing of concession stands, but excluding**
42 **police protection and fire protection.**

1 5. Water and sewage treatment, unless regulated in that
2 unincorporated town by an agency of the state.

3 6. Concessions on, over or under property owned or leased by the
4 unincorporated town.

5 7. Operation of landfills.

6 Sec. 5. 1. The board of county commissioners may:

7 (a) Provide the services described in section 4 of this act on an
8 exclusive basis or, by ordinance, adopt a regulatory scheme for providing
9 those services or controlling development on an exclusive basis within
10 the boundaries of the unincorporated town; or

11 (b) Grant an exclusive franchise to any person to provide those
12 services within the boundaries of the unincorporated town.

13 2. If the board of county commissioners wishes to provide services
14 pursuant to paragraph (a) of subsection 1, the board must submit the
15 contract for the provision of those services to competitive bidding. A bid
16 submitted by the board of county commissioners pursuant to this
17 subsection must be prepared by an independent certified public
18 accountant. In preparing the bid, the independent certified public
19 accountant shall compare any costs the unincorporated town would
20 incur in providing the services and any costs that a person would incur in
21 providing the services that the unincorporated town would not otherwise
22 incur, including, without limitation, the following:

23 (a) Any cost to the unincorporated town to pay for any utilities,
24 personnel, equipment, supplies or facilities that would be used to provide
25 the services regardless of whether the unincorporated town acquired
26 them for other purposes;

27 (b) Any additional cost to the unincorporated town resulting from an
28 increase in interest or penalties that the unincorporated town must pay to
29 cover the cost of providing the services, including, without limitation, any
30 interest or penalties that the unincorporated town must pay for:

31 (1) Using reserves; and

32 (2) Borrowing money.

33 (c) Any cost to the unincorporated town for maintaining additional
34 insurance required as a result of increased liability incurred from the
35 provision of the services;

36 (d) Any additional savings to the unincorporated town for any
37 facilities or support services that would be used to provide the services
38 related to the bid that would not otherwise be available to a person who
39 provides those services; and

40 (e) Any amount that a person who provides the services must pay for
41 franchise fees, license fees, taxes and other assessments that the
42 unincorporated town is not required to pay.

1 *The board of county commissioners shall award the contract for the*
2 *provision of the services to the lowest responsible bidder. If the*
3 *unincorporated town submits a bid in an amount that is equal to a bid*
4 *submitted by another bidder and both bids would be considered the best*
5 *bid, the contract must be awarded to the other bidder. If the*
6 *unincorporated town is awarded the contract, the board of county*
7 *commissioners must provide for an annual audit of the provision of the*
8 *services by the unincorporated town conducted by an independent*
9 *certified public accountant. The results of the audit are a matter of public*
10 *record. If the audit indicates that the unincorporated town cannot*
11 *provide the services pursuant to the bid it submitted and the additional*
12 *cost to the unincorporated town to provide the services is equal to or*
13 *greater than the difference between the unincorporated town's bid and*
14 *the bid submitted by the next lowest responsible bidder on the contract,*
15 *the remainder of the contract must be awarded to that bidder.*

16 **Sec. 6.** NRS 269.129 is hereby amended to read as follows:

17 269.129 **1.** A town board or board of county commissioners may:

18 ~~**(1. Provide those)**~~

19 **(a)** *Provide the* services *described in NRS 269.128* on an exclusive
20 basis or, by ordinance, adopt a regulatory scheme for providing those
21 services or controlling development on an exclusive basis within the
22 boundaries of the town; or

23 ~~**(2.)**~~ **(b)** Grant an exclusive franchise to any person to provide those
24 services within the boundaries of the town.

25 **2.** *If the town board or board of county commissioners of a town in a*
26 *county whose population is 100,000 or more wishes to provide services*
27 *pursuant to paragraph (a) of subsection 1, the town board or board of*
28 *county commissioners must submit the contract for the provision of those*
29 *services to competitive bidding. A bid submitted by the town board or*
30 *board of county commissioners pursuant to this subsection must be*
31 *prepared by an independent certified public accountant. In preparing the*
32 *bid, the independent certified public accountant shall compare any costs*
33 *the town would incur in providing the services and any costs that a*
34 *person would incur in providing the services that the town would not*
35 *otherwise incur, including, without limitation, the following:*

36 **(a)** *Any cost to the town to pay for any utilities, personnel, equipment,*
37 *supplies or facilities that would be used to provide the services regardless*
38 *of whether the town acquired them for other purposes;*

39 **(b)** *Any additional cost to the town resulting from an increase in*
40 *interest or penalties that the town must pay to cover the cost of providing*
41 *the services, including, without limitation, any interest or penalties that*
42 *the town must pay for:*

43 **(1)** *Using reserves; and*

1 (2) *Borrowing money.*

2 (c) *Any cost to the town for maintaining additional insurance required*
3 *as a result of increased liability incurred from the provision of the*
4 *services;*

5 (d) *Any additional savings to the town for any facilities or support*
6 *services that would be used to provide the services related to the bid that*
7 *would not otherwise be available to a person who provides those services;*
8 *and*

9 (e) *Any amount that a person who provides the services must pay for*
10 *franchise fees, license fees, taxes and other assessments that the town is*
11 *not required to pay.*

12 *The town board or board of county commissioners shall award the*
13 *contract for the provision of the services to the lowest responsible bidder.*
14 *If the town submits a bid in an amount that is equal to a bid submitted by*
15 *another bidder and both bids would be considered the best bid, the*
16 *contract must be awarded to the other bidder. If the town is awarded the*
17 *contract, the town board or board of county commissioners must provide*
18 *for an annual audit of the provision of the services by the town*
19 *conducted by an independent certified public accountant. The results of*
20 *the audit are a matter of public record. If the audit indicates that the*
21 *town cannot provide the services pursuant to the bid it submitted and the*
22 *additional cost to the town to provide the services is equal to or greater*
23 *than the difference between the town's bid and the bid submitted by the*
24 *next lowest responsible bidder on the contract, the remainder of the*
25 *contract must be awarded to that bidder.*

26 **Sec. 7.** NRS 269.500 is hereby amended to read as follows:

27 269.500 NRS 269.500 to 269.625, inclusive, *and sections 4 and 5 of*
28 *this act* may be cited as the Unincorporated Town Government Law.

29 **Sec. 8.** NRS 269.580 is hereby amended to read as follows:

30 269.580 The board of county commissioners of any county may, by
31 resolution adopted at a regular meeting, designate any one or more of the
32 services enumerated in NRS 269.575 *and section 4 of this act, if*
33 *applicable*, as properly within the power of a town advisory board to
34 manage.