

ASSEMBLY BILL NO. 381—ASSEMBLYMAN BACHE

MARCH 15, 2001

Referred to Concurrent Committees on Government Affairs
and Elections, Procedures, and Ethics

SUMMARY—Makes various changes regarding cities and towns. (BDR 21-67)

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

~

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

AN ACT relating to local governments; revising the provisions relating to the incorporation and organization of cities; directing the Legislative Commission to conduct an interim study to develop and recommend proposed enabling legislation for the creation of an incorporated town; 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 265.010 is hereby amended to read as follows:
- 2 265.010 No city or town in this state may be organized into an
- 3 incorporated city unless *there were* more than ~~250 electors~~ *10,000*
- 4 *inhabitants* residing within the limits of the city or town ~~least ballots at the~~
- 5 ~~general election last~~ *as determined by the last federal decennial census*
- 6 preceding the application for incorporation.
- 7 **Sec. 2.** NRS 266.055 is hereby amended to read as follows:
- 8 266.055 Municipal corporations organized under the provisions of this
- 9 chapter ~~shall be, and the same are,~~ *must be* divided into ~~three~~ *two*
- 10 classes:
- 11 1. Those cities having ~~20,000~~ *50,000* or more inhabitants ~~shall be~~
- 12 ~~known as~~ *are* cities of the first class.
- 13 2. Those cities having ~~more than 5,000 and~~ less than ~~20,000~~
- 14 ~~inhabitants shall be known as~~ *50,000 inhabitants are* cities of the second
- 15 class.
- 16 ~~3. All other cities shall be known as cities of the third class.~~
- 17 **Sec. 3.** NRS 266.060 is hereby amended to read as follows:
- 18 266.060 1. Whenever any city of the second class attains the
- 19 population of ~~20,000~~ *50,000* or more ~~, or any city of the third class~~
- 20 ~~attains the population of 5,000 or more,~~ and that fact is ascertained:



* A B 3 8 1 *

1 (a) By actual census taken and certified to the governor by the mayor;
2 or

3 (b) At the option of the city council, by the governor, pursuant to NRS
4 360.285, for 2 consecutive years,
5 the governor shall declare, by public proclamation, that city to be of the
6 first ~~for second class, as the case may be,~~ *class* and the city thus changed
7 is governed by the provisions of this chapter, applicable to cities of the
8 ~~higher~~ *first* class.

9 2. An authenticated copy of the governor's proclamation must be filed
10 in the office of the secretary of state.

11 **Sec. 4.** NRS 266.095 is hereby amended to read as follows:

12 266.095 1. Each incorporated city of the first class must be divided
13 into eight municipal wards. If an incorporated city of the second ~~for third~~
14 class is divided into municipal wards, the city must be divided into three or
15 five municipal wards as provided by ordinance.

16 2. The division of cities into wards must, during the incorporation
17 thereof, be made by the board of county commissioners. The wards must ,
18 as nearly as practicable , be of equal population and in compact form.

19 3. Once established, the boundaries of wards must be changed by
20 ordinance of the city council whenever, as determined at the close of
21 registration before each general election, the number of registered voters in
22 any ward exceeds the number of registered voters in any other ward by
23 more than 5 percent.

24 **Sec. 5.** NRS 266.185 is hereby amended to read as follows:

25 266.185 1. During the temporary absence or disability of the mayor,
26 the city council in cities of the second ~~for third~~ class shall elect one of its
27 number to act as mayor pro tem. In cities of the first class , the councilman
28 at large shall act as mayor pro tem.

29 2. During the temporary absence or disability of the mayor, the mayor
30 pro tem shall possess the powers and duties of mayor.

31 **Sec. 6.** NRS 266.220 is hereby amended to read as follows:

32 266.220 1. Except as otherwise provided in subsection 3, councilmen
33 must be chosen by the qualified electors of their respective wards.

34 2. In cities of the first class, the city council must be composed of nine
35 councilmen, one from each ward and one elected by the electors of the city
36 at large.

37 3. If , pursuant to an ordinance, a city of the second ~~for third~~ class is:

38 (a) Divided into wards, the city council must be composed of three or
39 five councilmen , with one councilman from each ward who is elected only
40 by the electors who reside in that ward.

41 (b) Not divided into wards, the councilmen of the city must be elected
42 by the voters of the city at large.

43 **Sec. 7.** NRS 266.405 is hereby amended to read as follows:

44 266.405 1. In addition to the mayor and city council, there must be in
45 each city of the first or second class a city clerk, a city treasurer, or if those
46 offices are combined pursuant to subsection 4, a city clerk and treasurer, a
47 municipal judge and a city attorney. The offices of city clerk, city treasurer,
48 municipal judge and city attorney may be either elective or appointive
49 offices, as provided by city ordinance. ~~At~~ *The terms of the* elective



* A B 3 8 1 *

1 officers ~~{shall hold their respective offices for}~~ **are** 4 years and until their
2 successors are elected and qualified. ~~{, except that cities of the third class~~
3 ~~may by ordinance provide that the mayor and city councilmen must be~~
4 ~~elected and hold office for 2 years.}~~

5 2. In each city of the first or second class in which the officers are
6 appointed pursuant to ordinance, the mayor, by and with the advice and
7 consent of the city council, shall appoint all of the officers. The officers
8 ~~{shall}~~ hold their respective offices at the pleasure of the mayor and city
9 council.

10 3. ~~{In cities of the third class, the mayor, by and with the advice and~~
11 ~~consent of the city council, may appoint any or all such officers as may be~~
12 ~~deemed expedient, and those appointive officers shall hold their respective~~
13 ~~offices during the pleasure of the mayor and city council.~~

14 ~~—4.~~ The governing body of a city may provide by ordinance for the
15 office of city clerk and the office of city treasurer to be combined into the
16 office of city clerk and treasurer.

17 **Sec. 8.** NRS 266.410 is hereby amended to read as follows:

18 266.410 Except as otherwise provided in subsection ~~44~~ **3** of NRS
19 266.405 for the clerk and treasurer, in cities of the first and second class, a
20 mayor, councilman, clerk, auditor, attorney or treasurer shall not hold any
21 other office under the city government during his term of office.

22 **Sec. 9.** NRS 267.110 is hereby amended to read as follows:

23 267.110 1. Any city having adopted a charter pursuant to the
24 provisions of NRS 267.010 to 267.140, inclusive, has pursuant to the
25 charter:

26 (a) All of the powers enumerated in the general laws of the state for the
27 incorporation of cities.

28 (b) Such other powers necessary and not in conflict with the
29 constitution and laws of the State of Nevada to carry out the commission
30 form of government.

31 2. The charter, when submitted, must:

32 (a) Fix the number of commissioners, their terms of office, and their
33 duties and compensation.

34 (b) Provide for all necessary appointive and elective officers for the
35 form of government therein provided, and fix their salaries and
36 emoluments, duties and powers.

37 (c) Fix, in accordance with the provisions of NRS 293C.140 and
38 293C.175, ~~{or with the provisions of NRS 293C.145,}~~ the time for the first
39 and subsequent elections for all elective officers. After the first election
40 and the qualification of the officers who were elected, the old officers and
41 all boards or offices and their emoluments must be abolished.

42 **Sec. 10.** NRS 293.059 is hereby amended to read as follows:

43 293.059 "General city election" means an election held pursuant to
44 NRS 293C.140. ~~{or 293C.145.}~~ The term includes a general municipal
45 election held pursuant to the provisions of a special charter of an
46 incorporated city.

47 **Sec. 11.** NRS 293.208 is hereby amended to read as follows:

48 293.208 1. Except as otherwise provided in subsections 2, 3 and 5
49 and in NRS 293.206, no election precinct may be created, divided,



* A B 3 8 1 *

1 abolished or consolidated, or the boundaries thereof changed, during the
2 period between the third Wednesday in May of any year whose last digit is
3 6 and the time when the legislature has been redistricted in a year whose
4 last digit is 1, unless the creation, division, abolishment or consolidation of
5 the precinct, or the change in boundaries thereof, is:
6 (a) Ordered by a court of competent jurisdiction;
7 (b) Required to meet objections to a precinct by the Attorney General of
8 the United States pursuant to the Voting Rights Act of 1965 , ~~42~~ 42 U.S.C.
9 §§ 1971 and 1973 et seq. , ~~42~~ and any amendments thereto;
10 (c) Required to comply with subsection 2 of NRS 293.205;
11 (d) Required by the incorporation of a new city; or
12 (e) Required by the creation of or change in the boundaries of a special
13 district.
14 As used in this subsection, “special district” means any general
15 improvement district or any other quasi-municipal corporation organized
16 under the local improvement and service district laws of this state as
17 enumerated in Title 25 of NRS which is required by law to hold elections
18 or any fire protection district which is required by law to hold elections.
19 2. If a city annexes an unincorporated area located in the same county
20 as the city and adjacent to the corporate boundary, the annexed area may be
21 included in an election precinct immediately adjacent to it.
22 3. A new election precinct may be established at any time if it lies
23 entirely within the boundaries of any existing precinct.
24 4. If a change in the boundaries of an election precinct is made
25 pursuant to this section during the time specified in subsection 1, the
26 county clerk must:
27 (a) Within 15 days after the change to the boundary of a precinct is
28 established by the county clerk or ordered by a court, send to the director
29 of the legislative counsel bureau and the secretary of state a copy of a map
30 showing the new boundaries of the precinct together with a word
31 description of the new boundaries; and
32 (b) Maintain in his office, an index providing the name of the precinct
33 and describing all changes which were made, including any change in the
34 name of the precinct and the name of any new precinct created within the
35 boundaries of an existing precinct.
36 5. Cities of the second ~~and third~~ class are exempt from the provisions
37 of subsection 1.
38 **Sec. 12.** NRS 306.015 is hereby amended to read as follows:
39 306.015 1. Before a petition to recall a public officer is circulated,
40 the persons proposing to circulate the petition must file a notice of intent
41 with the filing officer.
42 2. The notice of intent:
43 (a) Must be signed by three registered voters who actually voted in this
44 state or in the county, district or municipality electing the officer at the last
45 preceding general election.
46 (b) Must be signed before a person authorized by law to administer
47 oaths that the statements and signatures contained in the notice are true.
48 (c) Is valid until the date on which the call for a special election is
49 issued, as set forth in NRS 306.040.



* A B 3 8 1 *

1 3. The petition may consist of more than one document. The persons
2 filing the notice of intent ~~{shall}~~ **must** submit the petition that was
3 circulated for signatures to the filing officer within 60 days after the date
4 on which the notice of intent was filed. The filing officer shall immediately
5 submit the petition to the county clerk for verification pursuant to NRS
6 306.035. Any person who fails to file the petition as required by this
7 subsection is guilty of a misdemeanor. Copies of the petition are not valid
8 for any subsequent petition.

9 4. The county clerk shall, upon completing the verification of the
10 signatures on the petition, file the petition with the filing officer.

11 5. Any person who signs a petition to recall any public officer may
12 remove his name from the petition by submitting a request in writing to the
13 county clerk at any time before the petition is submitted for the verification
14 of the signatures thereon pursuant to NRS 306.035.

15 6. A person who signs a notice of intent pursuant to subsection 1 or a
16 petition to recall a public officer is immune from civil liability for conduct
17 related to the exercise of his right to participate in the recall of a public
18 officer.

19 7. As used in this section, "filing officer" means the officer with whom
20 the public officer to be recalled filed his declaration of candidacy or
21 acceptance of candidacy pursuant to NRS 293.185 ~~{, 293C.145}~~ or
22 293C.175.

23 **Sec. 13.** NRS 439.420 is hereby amended to read as follows:

24 439.420 Every city of the first and second class shall ~~{, and every city~~
25 ~~of the third class may,}~~ provide by ordinance for the establishment of a
26 board of health ~~{therefor,}~~ **for the city.**

27 **Sec. 14.** NRS 293.0384 and 293C.145 are hereby repealed.

28 **Sec. 15.** 1. The Legislative Commission shall appoint a
29 subcommittee consisting of six legislators to conduct an interim study to
30 develop and recommend proposed enabling legislation for the creation of
31 an incorporated town. The subcommittee must consist of:

32 (a) Two members appointed by the Majority Leader of the Senate from
33 the membership of the Senate Standing Committee on Government Affairs
34 during the immediately preceding session of the legislature;

35 (b) One member appointed by the Majority Leader of the Senate from
36 the membership of the Senate Standing Committee on Taxation during the
37 immediately preceding session of the legislature;

38 (c) Two members appointed by the Speaker of the Assembly from the
39 membership of the Assembly Standing Committee on Government Affairs
40 during the immediately preceding session of the legislature; and

41 (d) One member appointed by the Speaker of the Assembly from the
42 membership of the Assembly Standing Committee on Taxation during the
43 immediately preceding session of the legislature.

44 2. The subcommittee may appoint an advisory committee to assist the
45 subcommittee in carrying out its duties. Members of the advisory
46 committee serve without compensation, but are entitled to receive the per
47 diem allowance and travel expenses provided for state officers and
48 employees generally while engaged in the business of the advisory



* A B 3 8 1 *

- 1 committee. The per diem allowance and travel expenses must be paid from
2 the legislative fund.
- 3 3. The subcommittee may form such subcommittees of its members as
4 are necessary to study specific issues within the jurisdiction of the
5 subcommittee.
- 6 4. The subcommittee shall meet as frequently as necessary to complete
7 the recommendations for the proposed legislation.
- 8 5. In conducting the study, the subcommittee shall:
- 9 (a) Determine appropriate procedures for the incorporation of and the
10 governmental structure of an incorporated town;
- 11 (b) Identify and analyze the appropriate mandatory and optional powers
12 that the governing body of an incorporated town may exercise; and
- 13 (c) Consider the consolidation of any taxing district that may overlap
14 with the boundaries of an incorporated town.
- 15 6. The subcommittee may submit recommended legislation that is
16 approved by a majority of the members of the Assembly appointed to the
17 subcommittee and a majority of the members of the Senate appointed to the
18 subcommittee to the Legislative Commission.
- 19 7. The Legislative Commission shall submit a report of the results of
20 the study and any recommendations for legislation to the 72nd session of
21 the Nevada Legislature.
- 22 **Sec. 16.** This act becomes effective on passage and approval.

TEXT OF REPEALED SECTIONS

293.0384 City of the third class defined. City of the third class means a city:

1. Organized pursuant to the provisions of chapter 266 of NRS; or
2. Incorporated pursuant to a special charter,
whose population is 5,000 or less.

293C.145 Date of general city election in city of third class; terms of mayor and councilmen; procedure for filing declaration of candidacy; candidates for mayor voted upon by electors at large; candidates for councilmen voted upon by electors of ward or electors at large.

1. A general city election must be held in each city of the third class on the first Tuesday after the first Monday in June of the first odd-numbered year after incorporation, and on the same day every 2 years thereafter, as determined by ordinance.

2. There must be one mayor and three or five councilmen, as the city council shall provide, by ordinance, for each city of the third class. The terms of office of the mayor and the councilmen are 4 years, which terms must be staggered. The mayor and councilmen elected to office immediately after incorporation shall decide, by lot, among themselves which two of their offices expire at the next general city election, and thereafter the terms of office must be 4 years. If a city council thereafter



* A B 3 8 1 *

increases the number of councilmen, it shall, by lot, stagger the initial terms of the additional members.

3. A candidate for any office to be voted for at the general city election must file a declaration of candidacy with the city clerk not less than 60 days nor more than 70 days before the day of the general city election. The city clerk shall charge and collect from the candidate and the candidate must pay to the city clerk, at the time of filing the declaration of candidacy, a filing fee in an amount fixed by the city council by ordinance or resolution.

4. Candidates for mayor must be voted upon by the electors of the city at large. Candidates for councilmen must be voted upon by the electors of their respective wards to represent the wards in which they reside or by the electors of the city at large in accordance with the provisions of chapter 266 of NRS.

