

**MINUTES OF THE  
SENATE COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-third Session  
March 16, 2005**

The Senate Committee on Government Affairs was called to order by Chair Warren B. Hardy II at 2:02 p.m. on Wednesday, March 16, 2005, in Room 2149 of the Legislative Building, Carson City, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file at the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Warren B. Hardy II, Chair  
Senator Sandra J. Tiffany, Vice Chair  
Senator William J. Raggio  
Senator Randolph J. Townsend  
Senator Dina Titus  
Senator Terry Care  
Senator John Lee

**GUEST LEGISLATORS PRESENT:**

Senator Mark E. Amodei, Capital Senatorial District  
Assemblyman Lynn C. Hettrick, Assembly District No. 39

**STAFF MEMBERS PRESENT:**

Kim Guinasso, Committee Counsel  
Candice Nye, Assistant to Committee Manager  
Michael Stewart, Committee Policy Analyst  
Catherine Barstad, Committee Secretary

**OTHERS PRESENT:**

Dan Holler, County Manager, Douglas County  
Kelly D. Kite, Chairman, Board of Commissioners, Douglas County  
Tod Carlini, District Fire Chief, East Fork Fire and Paramedic Districts,  
Douglas County  
John Bellona, President, East Fork Fire and Paramedic Districts Employee  
Association, International Association of Fire Fighters Local 3726

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Steve Carr, North Lyon County Fire Protection District  
Andrew List, Nevada Association of Counties  
James E. Bentley, General Manager, Indian Hills General Improvement District  
David Stix, Jr., Mayor, City of Fernley  
Nancy J. Howard, Nevada League of Cities  
Bill Clegg, Planning Commission, City of Fernley  
Mary C. Walker, Douglas County

CHAIR HARDY:

I call the Committee on Senate Government Affairs to order. It is a pleasure to have Senator Mark Amodei with us today. We have to begin as a subcommittee with Senator Raggio and me present. We will open the hearing with Senate Bill (S.B.) 144.

**SENATE BILL 144**: Provides for continued existence and authority of Douglas County Redevelopment Agency and East Fork Fire Protection District following incorporation of city within Douglas County in certain circumstances. (BDR S-819)

SENATOR MARK E. AMODEI (Capital Senatorial District):

Senate Bill 144 represents a request by the constituents of Douglas County, who are also represented by Senator McGinness. When you have a city incorporating, as in the case of Douglas County, where there are no other incorporated cities within the county, we have to be sure all the tax aspects are covered. Going back after the fact to fix the tax language should not be an option. This bill represents Douglas County-specific legislation, which impacts technical aspects of who covers what districts in terms of taxation for the support of fire districts.

CHAIR HARDY:

It should be noted this is a special act of the Legislature, which is unique. It does not reference any particular chapter of *Nevada Revised Statutes* (NRS).

SENATOR AMODEI:

I would like to introduce the county manager of Douglas County, Mr. Dan Holler, and turn to his expertise for the remainder of the testimony.

DAN HOLLER (County Manager, Douglas County):

I would like to defer to Kelly Kite, Chairman of the Board of County Commissioners in Douglas County.

KELLY D. KITE (Chairman, Board of Commissioners, Douglas County):

This legislation is an effort to avoid problems in the future, when it comes time to incorporate a city anywhere in Douglas County. I represent the district we are talking about today. Our purpose is to make sure we have protection for districts within this area. We actually have four entities that will be affected by S.B. 144. Today, I will ask Mr. Holler and Mr. Carlini to cover the specifics.

MR. HOLLER:

Please refer to the material I have provided ([Exhibit C](#)). Douglas County supports the passage of S.B. 144. This is a special act for Douglas County that addresses two unique issues. First, Douglas County is the only county with an established redevelopment agency that was done by the county, whereas others are done by cities, or in the case of Carson City, the city-county. Second, fire and paramedic services are provided through four different agencies created under NRS 473, NRS 474 and NRS 318. There are overlapping districts. Recent discussions regarding a potential incorporation of the city in the county raised a number of issues. We would like to address these issues as they relate to the Douglas County Redevelopment Agency and to the East Fork Fire and Paramedic Districts (EFFPD). We need to determine if the taxpayers would benefit by having the city provide fire services or by retaining the services of the EFFPD. The purpose is to provide flexibility in the provision of fire services, but not at the expense of one taxpayer over another. We would like to add language to page 3, line 28 and line 32 of S. B. 144. On line 28 where it says "reduced cost," we would change it to "reduced or equal cost." On line 32 where it says "increased level," we would change it to "increased or equal level."

The Douglas County Redevelopment Agency was created in 1998. The Agency is noncontiguous and incorporates property throughout the county. The Agency has been successful in terms of diversifying the county's tax base and enhancing sales-tax growth. We are moving closer to being an exporting, versus an importing, county for sales-tax revenues. The Board of Commissioners set this as a goal about five years ago. The discussion of city incorporation has raised a number of questions, which we would like to address up front, rather than leaving it open for a potential decision within the courts. The status of

property within the Agency substantially impacts the Agency's ability to implement the adopted redevelopment plan. There is the potential for significant impact on outstanding Agency debt. We are concerned city incorporation could affect the Agency's ability to pay debt and thereby negatively impact our credit rating. Senate Bill 144 was requested to address these redevelopment issues prior to any incorporation, as current law is silent on this matter. Douglas County is requesting the law be clarified to allow the existing Agency to remain in place, should a portion of the entire Agency be included in any incorporation action. This action retains the adopted redevelopment plan and eliminates uncertainties for future projects.

The EFFPD services are also covered in [Exhibit C](#). You have multiple districts overlapping different parts of the county. The fire district is organized under chapter 474 of NRS. The paramedic district is organized under chapter 318 of NRS. Through an interlocal agreement, the EFFPD provides structural protection, enhanced medical response and added wildland fire protection within the Sierra Forest Fire Protection District. The approval of S. B. 144 will eliminate potential confusion over the scope and level of fire and paramedic services that would be provided to a new city incorporating within Douglas County. This bill provides a mechanism for a city fire department, provided it can be shown as the most cost-effective means of providing the service for the city without a negative impact on other fire districts.

CHAIR HARDY:

I will provide the distinction between a special act and an actual piece of legislation. A special act is a declaration of legislative intent when there is not an applicable place in general law for a particular situation. This is one of those situations. We are talking about making a declaration of legislative intent. I want to be sure that was clear.

You indicated if this declaration is not forwarded, the district would be dissolved. What, in actual practice, would happen? I do not think the fire department would close its doors. We are talking about a potential change in tax rates. What are the other real-life consequences? Technically, on paper, it would be dissolved, but it would not discontinue its existence.

MR. HOLLER:

Under chapter 266 of NRS, the EFFPD boundaries within the city are dissolved and the tax rate goes away. The remainder of the fire district is retained in its

configuration within the county. The portions of the fire districts that fall within the boundaries of the city are absorbed by the city. The tax rate goes away, and would have to be re-levied by the city or funded by different means.

CHAIR HARDY:

Are there any cases where this has happened?

MR. HOLLER:

Yes. It was the issue with Fernley. When the City of Fernley was incorporated, the fire district was not included. A special act was passed by the Legislature to allow the fire district to continue to operate. The Redevelopment Agency is different. It would continue to exist, as is, and be operated by the county. There would be no impact. The law is silent on this issue in terms of what happens.

CHAIR HARDY:

Would the city then absorb the assets and the personnel? They would still have the area to serve. Are you telling me that would not happen?

MR. HOLLER:

That is correct.

TOD CARLINI (District Fire Chief, East Fork Fire and Paramedic Districts, Douglas County):

I would like to present my prepared statement for the record ([Exhibit D](#)). I have covered additional concerns not previously discussed.

Irrespective of Indian Hills' city-incorporation effort, fire districts need some type of protection against successful incorporation efforts. Fire protection and emergency medical services are two of the basic public-safety services provided by the districts. Senate Bill 144 offers an opportunity for that protection. The fact that fire-protection districts are the only special districts which do not survive incorporation has far-reaching impact. Future planning to enhance service levels becomes problematic. Confusion over response jurisdiction will further impact the public. There is a potential for fragmentation of fire district boundaries. In some cases, jurisdictional islands may affect the condition of service.

Douglas County or the EFFPD has provided protection for over 75 years. The service provided now includes a comprehensive, advanced life support

program. The dissolution of even a small portion of the Districts serving a specific community would be disruptive to the current level of service. Contract service would ensure the continuity of service, but would not guarantee the fire and paramedic districts the opportunity to continue to provide service. The success we anticipate is due to the combined resource capacity of the districts. An area wishing to incorporate would be treated separately and not be included in the district grading. It would be highly unlikely that a stand-alone, newly incorporated city would achieve similar results without spending a lot of money to provide resources already in place that were funded by the entire district. Your support of S. B. 144 would be sincerely appreciated.

ASSEMBLYMAN LYNN C. HETTRICK (Assembly District No. 39):

This bill was submitted to allow Indian Hills access to this process to determine whether or not they should be allowed to have a vote for incorporation. Everyone I represent in my district has a right to this process. At the same time, I made it clear to those constituents that S. B. 144 had to be revenue neutral and not have a negative impact on the rest of the county. The intent of S. B. 144 is to maintain the status quo. *Nevada Revised Statute* 266.043 would eliminate the fire district if the area is incorporated. That would have a negative impact. The EFFPD is the primary source of fire protection in our area, and we need to ensure service is economically sound. Incorporation should not increase taxes to maintain fire service. If we do not allow this fire district to continue as is, there would be a possibility taxes would have to increase in the balance of the district. Douglas County has done a good job in bringing business and development into that portion of the county. They have plans to do more redevelopment. Everyone in the county will benefit. I would appreciate your consideration of S. B. 144.

JOHN BELLONA (President, East Fork Fire and Paramedic Districts Employee Association, International Association of Fire Fighters Local 3726):

We support S. B. 144. We want the Districts to expand, allowing for better service.

STEVE CARR (North Lyon County Fire Protection District):

The reason I am here today is to support this bill, S.B. 144.

CHAIR HARDY:

Is this bill modeled on what you finally ended up doing in Lyon County? Do you think this bill is neutral on the issue of incorporation, or do you think it is biased one way or the other?

MR. CARR:

The bill is similar to what we finally achieved in Lyon County. I am not sure if the bill is biased or not. The passing of S. B. 144 would make the process easier and cleaner than the experience we had in Lyon County.

ANDREW LIST (Nevada Association of Counties):

I testify today in favor of S.B. 144. This is a good process by which fire districts can work with the counties and the cities in the case of incorporation. This bill sets a good precedent. If this process works, it could be used by other cities and counties in the future.

CHAIR HARDY:

Is there anyone wishing to testify in opposition to S. B. 144?

JAMES E. BENTLEY (General Manager, Indian Hills General Improvement District):

Please refer to the prepared material I have provided. There is the blue-tabbed testimony opposing S. B. 144 ([Exhibit E](#), original is on file at the Research Library), a map of the Indian Hills General Improvement District (IHGID) ([Exhibit F](#)) and a PowerPoint handout titled "Synopsis of the Report on the Feasibility of Incorporation as a Nevada City" ([Exhibit G](#), original is on file at the Research Library)

[Exhibit G](#) demonstrates the feasibility of the new city government exercising its option to replace the current agencies on areas within the new city limits by assuming the associated debts for that area. This would reopen normal tax-based revenue flows.

A move to change the State law that applies to the formation of cities within any of the Nevada counties should not be considered, specifically for just one county. This would only serve as an additional hurdle to the potential incorporation wishes of the voters within what may become Sierra Hills, Nevada. Bill Draft Request (BDR) S-316 was introduced by Assemblyman Hettrick at the request of the Board of Trustees of the IHGID.

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**BILL DRAFT REQUEST S-316:** Incorporates City of Sierra Hills in Douglas County, Nevada. (Later introduced as [Assembly Bill 394](#).)

MR. BENTLEY:

The current law is not silent. There are laws in place to cover means for paying debts. The language in S. B. 144 specific to the protection of EFFPD is unnecessary and inappropriate. The Redevelopment Agency does not have to be protected from the possibility of Indian Hills becoming a city. Nothing at this time warrants a request to ask the State Legislature to interfere with potential discussions between a new city council and the existing Douglas County Commissioners. The language in S.B. 144 would previously limit the authority of the new city government before it is even established.

This Senate Committee should be made aware of the current litigation in the Ninth Judicial District Court of Douglas County related to the Redevelopment Agency's efforts to amend and expand its original demarche on the redevelopment area, number one. This pending litigation will establish new State case law related to the redevelopment law in Nevada and have ramifications well beyond the sole county of Douglas. For these and other reasons, I testify in opposition to S. B. 144.

CHAIR HARDY:

Mr. Bentley, are you saying we have a solution in search of a problem?

MR. BENTLEY:

Yes.

CHAIR HARDY:

I do not disagree with what you are saying, in terms of this ought to be the decision of the new city council, but the problem seems to be real.

SENATOR RAGGIO:

Is the city to be incorporated going to be called Sierra Hills? Is it the subject of BDR S-316?

MR. BENTLEY:

Yes, to both questions.



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SENATOR RAGGIO:

Are the boundaries in BDR S-316 the boundaries of the proposed city? Are they coterminous with both the EFFPD and the Redevelopment Agency, or different boundaries?

MR. BENTLEY:

They are actually different boundaries. In each case, the Agency exists outside the district boundaries, which are partially inside a proposed city boundary.

SENATOR RAGGIO:

If the city is incorporated, would there be areas of the Agency and the EFFPD outside the proposed city boundaries?

MR. BENTLEY:

Yes.

SENATOR RAGGIO:

What would that do to the Fire and Paramedic Districts? Would it just emasculate those districts? If we pass this bill as presented, what impact would it have on your feasibility study?

MR. BENTLEY:

The impact of ultimately becoming a city will be challenged if legislation is already in place that tells 6,000 residents they will never be able to decide to have their own fire department. They may be content with the service they have now. The point is, if becoming a city also gave them the authority to have their own fire department, it should not be prematurely defeated by S. B. 144.

SENATOR RAGGIO:

I am concerned with the fiscal feasibility issue. There is a provision in S. B. 144 that assigns the decision as to whether or not there is any impact on the tax rate to the State's Committee on Local Government Finance. Would this impact your feasibility study?

MR. BENTLEY:

I will address the question of impact that incorporation would have on EFFPD. Their data indicated up to 11 percent of their revenue comes from within the city boundaries. More than 13 percent of their revenue comes from the area population. The feasibility study actually makes an argument that if you are

going to reduce the workload by 13 percent and the revenue by 9 percent, it is a swap. This would not show a negative impact on their revenue. It is more expensive to start from scratch and build a fire service than it is to make arrangements to retain the current services. All this can be accomplished by current law. This bill is not necessary.

We expect the outcome of the litigation in the Ninth Judicial District Court on March 30. Today's discussions on redevelopment are premature. The Nevada Supreme Court will ultimately rewrite some of our redevelopment law.

SENATOR RAGGIO:

I want to make sure I am reading this map properly. The orange boundary line is called the "study area." What does that mean?

MR. BENTLEY:

That is the study area of incorporation. It is the proposed city limits of the new city; they are the same ones identified in BDR S-316. The alternate study areas, marked in green, pink and blue, are where people live, and though part of the study, they are outside the city boundaries.

DAVID STIX, JR. (Mayor, City of Fernley):

Four years ago, I sat in front of this Committee on the issue of special legislation affecting chapter 266 of NRS. I would like to clarify the difference between that legislation and S. B. 144. The difference is intent. The City of Fernley had the feasibility study completed indicating Fernley could become a city. The tax rate would remain the same. The Committee that did the incorporation start-up did not include the piece on fire districts in NRS 266.043.

Chair Hardy, you talked about this as a real problem. It is a real problem, especially for Fernley. I became Mayor on March 6, 2001. On July 1, 2001, Fernley became a city. We had three months to prepare. Services disappeared that were performed by Lyon County at one time. The City of Fernley had to pick up those services. Our fire service was going to lose its ability to tax within the City of Fernley. The stopgap was to allow them to continue to tax in the City of Fernley on a short-term program, until the City could assume those taxes. The way it should have been approached was to address the tax rate. We did not have the revenue needed. Those are the subtle differences.

CHAIR HARDY:

We clearly have the ability to deal with the issues you mentioned under Mr. Hettrick's bill, when it comes to us. All are legitimate issues. I see a lot of "mays" in S. B. 144. I do not see this as enabling legislation to help deal with those issues. It will not lock in anything. The language from NRS 266 was much simpler. It was obviously a stopgap measure. Maybe this should not have to be so comprehensive.

MR. BENTLEY:

True, there are a lot of "mays" in this language. It is enabling for them. When Fernley brought legislation to get the fire district issue fixed, it was initiated by the City of Fernley, not by Lyon County. If this language stated EFFPD may stay, I could actually support that if we are talking about inserting amendments at the request of the newly elected city council. If that language meant the EFFPD board of directors could work with the city council and reach a conclusion to stay in place, I could support that. Senate Bill 144 does not. This language says we "may" stay in place.

NANCY J. HOWARD (Nevada League of Cities):

When the City of Fernley incorporated, it did so under chapter 266 of NRS, which is general law. That has quite an extensive review process prior to incorporation. Part of that process is a review by the Committee on Local Government Finance. This makes it different. Even with the review under chapter 266 of NRS in Fernley, they still did not catch the need for the fire district. They had to come back for the special legislation. Things can happen both ways, even with all those safeguards in place. However, the Nevada League of Cities needs to go on record as opposing S.B. 144. It proposes to eliminate the basic, fundamental rights of a newly incorporated city. This bill is specific to Douglas County. It sets an unacceptable precedent. It is special legislation drafted for the only county with a redevelopment district, though not the only county that could have a redevelopment district in the future. If passed, it could easily be amended in future Legislative Sessions to accommodate other counties. Senate Bill 144 undermines local decision-making processes as set forth under general law for local governments. I respectfully ask that you do not take any action on this bill until you know the outcome of the pending litigation, which is scheduled for hearing on March 30, and hear the proposal for the Indian Hills incorporation.

SENATOR TIFFANY:

The litigation has been going on for awhile. Do you expect a final conclusion on March 30?

MR. BENTLEY:

The judge told us he expects to try this case in one day. We will know the status of that litigation by March 30.

SENATOR TIFFANY:

What would be the top three possibilities of outcome?

MR. BENTLEY:

If the judge agrees with us, the outcome would basically shut down the amendment Douglas County proposes to the EFFPD. They would have to go back to the drawing board and start from the beginning. We believe Douglas County's process is backwards. There are some major issues that could result in Douglas County taking it to the Supreme Court.

SENATOR TIFFANY:

The outcome depends on whether the redevelopment area is going to change or not.

MR. BENTLEY:

In this instance, yes, with ramifications for how current redevelopment law is interpreted.

SENATOR TIFFANY:

That would be the result of the litigation. I would also like to know what is going to go to the vote of the people. What will actually end up on the ballot?

MR. BENTLEY:

Bill Draft Request S-316 requires voter ratification once this legislation is enacted. If they are unable to charter a new city, that vote would take place the first Tuesday, after the first Monday, in November 2006. If the voting members inside those boundary lines should turn down city incorporation, the point is moot. If they pass it, that same legislation says the districts need to dissolve.

SENATOR TIFFANY:

The issue of raising taxes would not go on the ballot. Would taxes be raised?

MR. BENTLEY:

Page 3 and page 4 of the draft charter states, "the tax rate in place" on the day they become a city "may not be raised at all without a vote of those people."

Senator Tiffany:

It fixes the tax rate. If this goes to the vote of the people, then you really need to have the answers for the redevelopment, and what it is going to look like.

MR. BENTLEY:

The answers have to be there. We have to know what it would cost if we went into contract.

SENATOR TIFFANY:

Would you put that to the vote of the people? If you do become a city and you decide to have your own fire district, it would then require that you raise your rates on property tax. Would that question go to the vote of the people?

MR. BENTLEY:

The city mayor and city council, under this charter, would be required to get permission from the people if there was any cost. That is a question that would have to be put in front of the city council and the people. I think they should have that option.

SENATOR RAGGIO:

Are Minden and Gardnerville towns, not incorporated cities? Are they within these districts or not?

MR. BENTLEY:

They are not incorporated cities. Minden and Gardnerville town limits are not within the Agency's area, yet; I do not know about the EFFPD.

SENATOR RAGGIO:

Are we going to treat this new incorporated city differently than we presently treat the towns of Minden and Gardnerville?

MR. BENTLEY:

It just removes the district, meaning IHGID. There should not be a negative impact on the people or the governing bodies of those towns whatsoever.

However, if they ever chose to incorporate, there would be additional hurdles if this legislation passes.

SENATOR CARE:

As to the litigation, there is always the possibility it could take another two or three years on appeal. What do you call the people who govern at Indian Hills? Are they city council members, even though it is not a city?

MR. BENTLEY:

They are an elected board of trustees.

SENATOR CARE:

Did they have to address the issue of incorporation the last time they ran for election?

MR. BENTLEY:

It was beginning to be an issue. My background was political science; it would be tough to make a call whether anybody who lost or gained a seat went on that one issue because we had just raised all the water rates across the district about a month earlier. There was an impact on both sides. Statistically, it splits 60 percent in favor of incorporation and 40 percent against incorporation.

MS. HOWARD:

This is a local issue. I would have preferred if Douglas County and the parties involved could have sat down at a table and worked this out, and not brought it before this Committee. Laws are in place to deal with this.

CHAIR HARDY:

I agree. I just want to make sure the tools are there for all the issues to be addressed, and I do believe, as well, it is a local government issue.

BILL CLEGG (Planning Commission, City of Fernley):

When I was an elected fire commissioner of the North Lyon County Fire Protection District back in 2000, I had to deal with some of these same issues. We did not read chapter 266 of NRS properly. We thought everything would go smoothly. We received incorrect information. By the time we got the correct information, the red flag was there. Former Assemblyman Joe Dini and Senator Amodei immediately came forward and assisted both the city and the fire district.

CHAIR HARDY:

Would you say the problem in Fernley was not understanding the impact of the existing law until you moved so far down the road that it became a problem? If you had sufficient time, you could have worked through all the problems.

MR. CLEGG:

That is correct.

MARY C. WALKER (Douglas County):

If the incorporation does go to the voters in November 2006, Sierra Hills would be incorporated as of January 1, 2007, prior to the next Legislative Session. Unless we pass S.B. 144, NRS 266.043 remains as is, which means the fire district ceases to exist. We would have the same crisis in Douglas County that they had in Fernley, if you do not pass this bill.

CHAIR HARDY:

I am not interested in getting into the middle of an argument over incorporation. That should be a local government issue. I am interested in making sure you have the legal mechanism to deal with all the issues. That is our responsibility.

SENATOR TITUS:

There is a recent article in the paper on the air pollution problem. I would like to have someone from Clark County or the air quality board come and give us a report.

CHAIR HARDY:

We are pretty swamped in this Committee right now, but I agree with Senator Titus. It is an important issue. We will have staff go to work and put that together.

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Are there any further recommendations, suggestions or business for the Committee? As there is no further business, this meeting is adjourned at 3:23 p.m.

RESPECTFULLY SUBMITTED:

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Catherine T. Barstad,  
Committee Secretary

APPROVED BY:

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Senator Warren B. Hardy II, Chair

DATE: \_\_\_\_\_