

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

**Seventy-fourth Session
February 21, 2007**

The Senate Committee on Government Affairs was called to order by Chair Warren B. Hardy II at 2:05 p.m. on Wednesday, February 21, 2007, 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 in the Research Library of the Legislative Counsel Bureau.

COMMITTEE MEMBERS PRESENT:

Senator Warren B. Hardy II, Chair
Senator Bob Beers, Vice Chair
Senator William J. Raggio
Senator Dina Titus
Senator Terry Care

COMMITTEE MEMBERS ABSENT:

Senator Randolph J. Townsend (Excused)
Senator John J. Lee (Excused)

STAFF MEMBERS PRESENT:

Eileen O'Grady, Committee Counsel
Michael J. Stewart, Committee Policy Analyst
Olivia Lodato, Committee Secretary

OTHERS PRESENT:

Ronald L. Lynn, Clark County; Nevada Organization of Building Officials
Vinson W. Guthreau, Nevada Association of Counties
Sean Gamble, Builders Association of Western Nevada

Chair Hardy opened with a discussion of Bill Draft Request (BDR) 22-953.

BILL DRAFT REQUEST 22-953: Clarifies the provisions regarding the imposition of impact fees for certain capital improvements. (Later introduced as [Senate Bill 134](#).)

Chair Hardy said BDR 22-953 expanded the definition of capital improvements to police stations and projects.

SENATOR RAGGIO MOVED TO INTRODUCE BDR 22-953.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS LEE, TITUS AND TOWNSEND WERE ABSENT FOR THE VOTE.)

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Chair Hardy introduced BDR 33-210.

BILL DRAFT REQUEST 33-210: Creates the Office of State Paleontologist within the Department of Cultural Affairs. (Later introduced as [Senate Bill 135](#).)

SENATOR RAGGIO MOVED TO INTRODUCE BDR 33-210.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS LEE, TITUS AND TOWNSEND WERE ABSENT FOR THE VOTE.)

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Chair Hardy introduced BDR 19-213.

BILL DRAFT REQUEST 19-213: Designates the month of May of each year as Archeological Awareness and Historic Preservation Month in Nevada. (Later introduced as [Senate Bill 136](#).)

SENATOR RAGGIO MOVED TO INTRODUCE BDR 19-213.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS LEE, TITUS AND TOWNSEND WERE ABSENT FOR THE VOTE.)

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Chair Hardy introduced BDR 27-365.

BILL DRAFT REQUEST 27-365: Revises provisions relating to local governmental purchasing. (Later introduced as [Senate Bill 137](#).)

Chair Hardy said BDR 27-365 increased the amount a local government was required to advertise a purchasing contract from \$25,000 to \$50,000.

SENATOR RAGGIO MOVED TO INTRODUCE BDR 27-365.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS LEE, TITUS AND TOWNSEND WERE ABSENT FOR THE VOTE.)

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Chair Hardy introduced BDR 22-480.

BILL DRAFT REQUEST 22-480: Revises provisions relating to the residential construction tax. (Later introduced as [Senate Bill 138](#).)

Chair Hardy said the bill removed the \$1,000 cap on residential construction tax for parks. He said it expanded the usage of the tax to include maintenance, and some older communities did not benefit from the bill.

Senator Raggio stated that a motion for committee introduction of a bill allowed for an introduction and hearing, but did not necessarily mean support for the bill.

SENATOR RAGGIO MOVED TO INTRODUCE BDR 22-480.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS LEE, TITUS AND TOWNSEND WERE ABSENT FOR THE VOTE.)

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Chair Hardy next introduced BDR 22-485.

BILL DRAFT REQUEST 22-485: Revises provisions relating to certain cooperative or interlocal agreements. (Later introduced as [Senate Bill 139](#).)

SENATOR RAGGIO MOVED TO INTRODUCE BDR 22-485.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS LEE, TITUS AND TOWNSEND WERE ABSENT FOR THE VOTE.)

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Chair Hardy introduced BDR 27-609.

BILL DRAFT REQUEST 27-609: Revises provisions relating to the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations. (Later introduced as [Senate Bill 140](#).)

SENATOR RAGGIO MOVED TO INTRODUCE BDR 27-609.

SENATOR BEERS SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS LEE, TITUS AND TOWNSEND WERE ABSENT FOR THE VOTE.)

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Chair Hardy opened the hearing on Senate Bill 56.

SENATE BILL 56: Revises provisions relating to building codes. (BDR 20-378)

Ronald L. Lynn, Clark County; Nevada Organization of Building Officials, stated Senate Bill (S.B.) 56 removed antiquated provisions in *Nevada Revised Statutes* (NRS). He said NRS 244.368 required conformance of city and county building regulations up to one mile beyond the city limits into a county. He said the current law imposed financial burdens on Clark County and developers by requiring the county and the impacted city to review plans and issue construction permits. He said it potentially involved double fees. Mr. Lynn said the statute was no longer needed because the counties affected had a population of 400,000 or more and impacted Clark County.

Chair Hardy asked Mr. Lynn for a specific example of the remedy achieved with the bill.

Mr. Lynn said the Las Vegas Strip was in Clark County. He said he received notice from a building official The Strip was required to conform with their rules, procedures and laws. He said Clark County had multiple experts analyzing the sophisticated and complex buildings on The Strip. He said conforming to someone else's analysis was inappropriate and costly.

Senator Beers asked Mr. Lynn if his example had occurred.

Mr. Lynn said a letter was received last year from an incorporated city requiring adherence to Nevada law. He said the Clark County building department had no way to obey and was in violation of Nevada law. It would have cost millions of dollars to conform.

Senator Beers asked which set of regulations and specifications were more stringent. He asked if there was case law for guidance in that area.

Mr. Lynn replied there was no case law for a definition of more or less stringent requirements.

Senator Hardy said most cases were easy to recognize, and the standard of more or less stringent was common in the building industry. He asked Mr. Lynn how a dispute concerning more or less stringent was resolved.

Mr. Lynn said Clark County decided to wait for a challenge from some entity concerning their decision.

Senator Care said he looked for case annotations. He found a situation where a county had no building code. He said there was a time when counties had no building code and cities determined the codes necessary for the county. He asked why the one-mile rule was necessary.

Mr. Lynn said the cities wanted to annex more property and needed to ensure there were building codes in force. He said this rule was no longer necessary as all counties now had building codes.

Chair Hardy said building inspectors and officials in Clark County worked well together on issues. He had not seen any unresolved issues between the entities.

Senator Raggio said he concurred with Mr. Lynn. He said at one time counties had minimal or no restrictions. He said one mile was an arbitrary number because cities did not anticipate growing more than a mile from their city limits.

Chair Hardy asked if there was further testimony for or against S.B. 56.

Vinson W. Guthreau, Nevada Association of Counties, said the Nevada Association of Counties (NACO) introduced the bill on behalf of Clark County. He said NACO and its board of directors supported the legislation.

Chair Hardy closed the hearing on S.B. 56 and opened the hearing on S.B. 84.

SENATE BILL 84: Requires the approval of building officials for certificates pertaining to the subdivision of certain buildings. (BDR 22-377)

Mr. Lynn had an amendment to S.B. 84 ([Exhibit C](#)). He said current law allowed developers to subdivide industrial and commercial buildings after an engineer or architect certified that the building and subdivision complied with applicable construction codes. The law did not state where the certification was filed. He said his original amendment stated certification went to building officials for review and filing. He said questions were raised concerning the meaning of the word "applicable" as it related to construction codes. Mr. Lynn said applicable meant the code of original construction and Nevada laws. The purpose of the bill solved multiple problems. He said people subdivided existing commercial buildings and failed to do the proper legal or construction requirements to assure safety of the building after it became a multiple ownership building. He mentioned lack of appropriate easements, parking and egress as problems

previously incurred. He said the United States Department of Justice was involved in cases with handicap accessibility problems. He said industrial warehouses were subdivided in the wrong direction. The subdivision created access only to the loading docks for tenants in the back of the building. Thus, there was no handicap accessibility. He said there were subsequent repairs. Mr. Lynn stated it was less costly to have appropriate approvals of design and code standards in the beginning of the project. He said the purpose of the bill was proactive rather than reactive.

Senator Care asked if the effect on local government included fees or a delay in occupancy.

Mr. Lynn offered examples of architects or engineers identifying areas of life safety systems, exiting and sprinkler suppression in buildings. He said the building department looked at those areas and had the records on file. He said if a subdivision was sold or went bankrupt, the building department was notified and able to secure safety of the inhabitants in the structure. He said delays for a typical strip shopping center were one to two days. The most significant time involved was the original analysis by the architect or engineer.

Senator Care asked if the language in the amendment meant the city building department had jurisdiction one mile into the county.

Mr. Lynn said as the law was now written, Senator Care was correct.

Mr. Guthreau said NACO was in support of the legislation.

Sean Gamble, Builders Association of Western Nevada, said her organization opposed the bill. She said concern with the amendment by Mr. Lynn was with the wording "approved and signed by," which indicated delays and more processes. She said a population cap was of interest to her organization.

Chair Hardy asked Mr. Lynn if the issue was primarily in response to the condominium conversions.

Mr. Lynn replied it was not the issue. He said a strip shopping center or office warehouse construction was divided and rented to a number of people. It was then sold, creating a commercial condominium. He said this created individual ownership issues. It was not a residential issue. He stated all design plans he

saw had errors that could result in loss of life or structural collapse unless the building department saw the problem. He said most engineers and architects believed the building department was the cheapest line of defense.

Senator Beers asked if a professional engineer or registered architect faced ramifications for failure to recognize safety or structural issues.

Mr. Lynn said there were penalties for such failures.

Senator Beers asked why the existing penalties did not deter such cases.

Mr. Lynn said the complexity of money, construction and time frame required often resulted in errors in design. He said no engineering or architectural school in the United States taught building codes.

Senator Beers asked Mr. Lynn if a percentage of commercial or industrial subdivisions had deficient architectural or engineering designs. He asked if the law was being changed for only one or two cases.

Mr. Lynn replied hundreds of commercial and industrial subdivisions had such problems. He said the building department had approximately ten cases a month.

Senator Beers asked Mr. Lynn to verify the number of buildings involved and return with that number to the Committee.

Mr. Lynn replied that in the absence of the bill, such problems did not have to be filed with the building department. He said such problems were often found when a business license was issued. He said the design engineer did not make a mistake, but the new tenant was inappropriate for the design of the building. He offered an example of an auto repair shop incorporated into a mercantile situation without appropriate firewalls between structures.

Senator Beers said his example did not apply to this bill because it was a change in use of the building.

Mr. Lynn said the owners of the subdivision were required to tell the building department how they planned to use the building.

Senator Beers said S.B. 84 appeared to be an unfunded mandate.

Mr. Lynn replied fees were incorporated and it was funded.

Senator Beers said he wanted to quantify performance and receive a more detailed scope of the problems. He was also concerned about additional costs caused by delays.

Chair Hardy asked Mr. Lynn to quantify the number of buildings involved with problems for Senator Beers. Chair Hardy asked Mr. Guthreau to reply to Ms. Gamble's suggestion the bill only apply to Clark County. He asked if his organization believed the bill needed to be enacted statewide.

Mr. Guthreau said the board might not oppose a population cap. He said the bill was a life and safety issue and applied to all counties in the state.

Chair Hardy asked Mr. Lynn if he was acting on behalf of colleagues in other parts of the state.

Mr. Lynn said as chairman of the Nevada Organization of Building Officials, he represented the other jurisdictions.

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Chair Hardy said further discussion of the bill was needed. There being no further business, Chair Hardy adjourned the meeting at 2:43 p.m.

RESPECTFULLY SUBMITTED:

Olivia Lodato,
Committee Secretary

APPROVED BY:

Senator Warren B. Hardy II, Chair

DATE: _____