

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS**

**Seventy-Sixth Session
May 2, 2011**

The Committee on Government Affairs was called to order by Chair Marilyn K. Kirkpatrick at 9 a.m. on Monday, May 2, 2011, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 5100 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/76th2011/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Marilyn K. Kirkpatrick, Chair
Assemblywoman Irene Bustamante Adams, Vice Chair
Assemblyman Elliot T. Anderson
Assemblywoman Teresa Benitez-Thompson
Assemblyman John Ellison
Assemblywoman Lucy Flores
Assemblyman Ed A. Goedhart
Assemblyman Pete Livermore
Assemblyman Harvey J. Munford
Assemblywoman Dina Neal
Assemblywoman Peggy Pierce
Assemblyman Lynn D. Stewart

COMMITTEE MEMBERS ABSENT:

Assemblywoman Melissa Woodbury (excused)

GUEST LEGISLATORS PRESENT:

Senator John J. Lee, Clark County Senatorial District No. 1

STAFF MEMBERS PRESENT:

Susan Scholley, Committee Policy Analyst
Brenda Erdoes, Legislative Counsel
Jenny McMenomy, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

J. David Fraser, Executive Director, Nevada League of Cities and Municipalities
Jeff Fontaine, Executive Director, Nevada Association of Counties
P. Michael Murphy, representing Clark County
Ted J. Olivas, Director, Administrative Services, City of Las Vegas
Mary C. Walker, representing Carson City, Douglas County, Lyon County, and Storey County
Terri B. Barber, Intergovernmental Relations Director, City Manager's Office, City of Henderson
Patti Chipman, representing Nye County
Terry J. Care, Private Citizen, Las Vegas, Nevada
Cadence Matijevich, Legislative Relations Program Manager, Office of the City Manager, City of Reno
Juanita Cox, representing Citizens in Action
Debra March, Councilwoman, City of Henderson:

Chair Kirkpatrick:

[Roll was taken.] I will open the hearing on Senate Bill 384 (1st Reprint).

Senate Bill 384 (1st Reprint): Authorizes the governing body of a local government to adopt procedures for the sale of naming rights to certain public facilities. (BDR 28-172)

Senator John J. Lee, Clark County Senatorial District No. 1:

As many of you know, during the 2009-2010 Interim, I served as the Chairman to the Legislative Commission's Committee to Study Powers Delegated to Local Governments. This bill is one of three that the committee requested in an attempt to give more autonomy to Nevada's local governments.

[Read from testimony ([Exhibit C](#)).]

To give you an example, Clark County received about 3,000 acres from the Bureau of Land Management to build a shooting range. We received \$63 million from the public lands money, and our goal was to make the shooting range

self-funding. We used that money to build phase one. We then wanted someone to offer to build a building on the property or have someone pay to name the park as an opportunity to make the shooting range self-sufficient. This has been a very good program, and we would like the other counties to have these same opportunities.

Chair Kirkpatrick:

This is in *Nevada Revised Statutes* (NRS) Chapter 338, so this bill applies to all public works? Last time, this was also under NRS Chapter 244 which includes counties.

Senator Lee:

In this particular case, you are correct. This bill is for any public facilities.

Chair Kirkpatrick:

How does this work for the state or school districts that already have policies in place? They may not have an ordinance, but they would have policy.

Senator Lee:

This is for county and city buildings. This bill does not address schools or state issues.

Chair Kirkpatrick:

I want to know what the intent of this bill was because NRS Chapter 338 is a much wider area. I think this is okay with the schools, but there is no ordinance.

J. David Fraser, Executive Director, Nevada League of Cities and Municipalities:

If the language were changed to "may adopt by policy or ordinance," would that address your concern?

Chair Kirkpatrick:

Yes, this may just be a technicality.

Assemblyman Livermore:

In my community, we currently have an ordinance in place that provides the opportunity for the public to bring forth names of events. A selection process takes place and eventually a name is selected. I understand the monetary gain of someone naming an event or facility for payment. Would that contradict the ordinance that is currently in place?

Senator Lee:

This bill will allow counties and cities to adopt what they want to do. What is currently in law is not being changed; we are just trying to help local governments who feel they cannot do this.

Chair Kirkpatrick:

There are policies in place to determine how the naming process works which school districts currently have in place. This bill would provide an opportunity to change the name of a building on a regular basis.

Senator Lee:

That is correct.

Assemblyman Livermore:

I would like to ensure that we are not potentially creating something that conflicts with an existing policy.

Assemblyman Anderson:

I am not super enthusiastic about this bill, but I think it is probably necessary to help local government get through the poor economy. Does the local body have to vote on the naming of buildings, or does a staff member somewhere decide this company can name this building? Is there a requirement to have the local body vote on the naming right?

Senator Lee:

Anything that takes place with the naming rights is deemed to go through the public open meeting process and be discussed. It will also give the general public a chance to voice their opinions. There is nothing being mandated in this bill.

Chair Kirkpatrick:

I have a copy of Clark County's ordinance on naming rights for what you could and could not name something, when it could take place, and for how long. There was a full discussion in Clark County about ensuring there were no crazy names. Line 14 of the bill allows for all of that to take place, so there is a public process. Currently, the school district receives several public suggestions when naming schools.

Another example is that Clark County has the Sam Boyd Stadium. They have remote control car races there. They come from around the world, and I know they are very interested in making this their own event and naming it themselves.

Assemblywoman Bustamante Adams:

The reason we want this legislation is because it has worked well in Clark County and now we want to expand and give others the opportunity, is that correct?

Senator Lee:

Yes. This has worked very well in Clark County. Other counties are having a hard time getting money for parks and recreation. With this bill, other counties could have someone come in to do extra work for them or rent out the park and change the name for a week. It would still be the county's facility, but the parks and recreation departments could generate a little money to be more self-funded and not be so tied to the general fund of the county.

Assemblywoman Bustamante Adams:

When this money is generated, is it accountable to a certain line item? How does that work?

Jeff Fontaine, Executive Director, Nevada Association of Counties:

I would imagine this money would be accounted for separately, as some sort of special revenue and go into a fund that could be expended in an area related to what it is named after.

Assemblywoman Bustamante Adams:

Regarding the ordinances that the Chair talked about for Clark County, is there an assumption that other local entities will adopt similar ordinances which are just as diligent in ensuring there is no abuse?

Senator Lee:

That is why I believe Clark County is a great model. I did not envision telling the entities exactly how to do this. I love local control, and I do not like to mandate to the cities and counties what they must or must not do. I left this open for their interpretation with their district attorneys and staff.

Chair Kirkpatrick:

For the Committee members, you would be selling yourself short if you did not think it was okay to follow legislation. I always follow the legislation to see how it works, and the next session you can ask for a report back. Local governments want to give you as much information as they can before it becomes an issue.

Assemblyman Stewart:

I think this is a great example of your creative mind working with a public-private partnership, which I am always glad to support. Can you give us an idea of some of the successes you have had in the past?

Senator Lee:

We have just finished phase one of the shooting range, and we are in the process of going through the naming rights issues. We have approximately \$4 million coming in from people who want to do projects on the range.

Assemblyman Stewart:

I would like to hear from the other testifiers on ways they see this being used in the future.

David Fraser:

I have not had any specific discussion with any of my members about what they would name if this passes. Based on my own speculation, naming parks temporarily or recreational facilities, such as a gymnasium, might be where you would want to sell a naming right. I would like to point out that this would not prevent naming something for no fee.

Jeff Fontaine:

I also have not had specific conversation with counties, but when looking at counties' budgets and cuts they have had to make, the first cuts were to quality of life programs, such as parks, recreation, and libraries. My speculation would be those are areas of opportunity for naming and raising some revenue.

Assemblywoman Pierce:

I am not crazy about this policy. I think it is enough of a challenge to remind people that when they pay taxes they get paved roads and firemen showing up at their house when needed, et cetera. There are tangible things that come from paying taxes. Now we have a generation of kids that believe Sprint gave them the Little League park on the corner. The very nice park a block away was given to them by NV Energy.

Senator Lee:

I understand your point. I have a few prime examples where this has worked. The Thomas & Mack Center and the Sam Boyd Stadium, without the naming of them, we may not have had those locations.

Chair Kirkpatrick:

Any other questions? [There were none.] Is there anyone here who would like to testify in support?

P. Michael Murphy, representing Clark County:

As you have heard, we have an ordinance to this effect. Our ordinance states that any funds generated from the sale of naming rights would be designated to an enterprise fund solely dedicated to that facility. The purpose of that is to allow general funds to be utilized in other areas. We have some very specific things that would preclude someone from naming a facility. The name must be in harmony with the mission of Clark County. It cannot be false, misleading, or deceptive. It cannot promote unlawful or illegal goods, services, or activities. It cannot promote or glamorize hate, violence, or antisocial behavior. There are many more that we can address further if you like. We believe this is a good public-private partnership, if done appropriately. We support the concept.

Chair Kirkpatrick:

Are there any questions? [There were none.]

Ted J. Olivas, Director, Administrative Services, City of Las Vegas:

We are also in support of this bill. This is enabling legislation. Subsections 1 and 2 reference the governing body. This goes to the governing body for policy or ordinance. We have a number of facilities such as senior centers, swimming pools, or parks, which offer a number of opportunities.

Chair Kirkpatrick:

Are there any questions? [There were none.]

Mary C. Walker, representing Carson City, Douglas County, Lyon County, and Storey County:

We support this legislation.

Chair Kirkpatrick:

Are there any questions? [There were none.]

Terri B. Barber, Intergovernmental Relations Director, City Manager's Office, City of Henderson:

I agree with everything that has been said and would like to add one thing. It is not the intention of this bill to change or remove the names of those buildings that have already been named for a person of prominence in the community. We would not like to see that happen.

Chair Kirkpatrick:

Are there any questions? [There were none.]

Patti Chipman, representing Nye County:

We would like to have the opportunity this bill offers and hope someone would be interested in helping us build new parks.

Chair Kirkpatrick:

Are there any questions? [There were none.] Anyone else wishing to testify in support? Anyone in opposition? Anyone neutral?

Senator Lee:

We have another bill that covers what Ms. Barber mentioned. Anything that has a historic name to it or a particular geographical name will be preserved. We could put an amendment on this bill to protect what has already been established in communities.

Chair Kirkpatrick:

Section 1, subsection 2, paragraph (b) refers to historic significance. Maybe that language could be tightened up a bit. I will now close the hearing on S.B. 384 (R1). I will open the hearing on Senate Bill 385 (1st Reprint).

Senate Bill 385 (1st Reprint): Grants power to local governments to perform certain acts or duties which are not prohibited or limited by statute. (BDR 20-170)

Senator John J. Lee, Clark County Senatorial District No. 1:

This bill authorizes counties and cities, with some exceptions, to exercise the powers necessary for the effective operation of county and city government.

[Read from testimony ([Exhibit D](#)).]

In law, we give local governments certain powers and we restrict certain powers. There are some times when local governments want to do something locally. For example, the city council or county commission calls their district attorney asking to do a naming rights program. The district attorney sees that the *Nevada Revised Statutes* (NRS) does not state that it can be done, therefore, the county must go before the Legislature and get permission to do this. Another city government may look in the books and notice the law does not say they cannot do it, so they do it. It is always at the interpretation of the district attorney. Many district attorneys are busy, and if the NRS does not say it can be done, they will not allow it. This bill gives some control over some of the local day-to-day issues.

Assemblywoman Neal:

Sections 4 and 11 have similar language where it says, "All other powers necessary or desirable in the conduct of county affairs" The word "desirable" has a very large scope. I am trying to figure out where is the check and balance of that particular power. My concern is, when you have particular self-interested groups, which could be political or economic, and part of their desire is to influence the board, and the board goes in a particular direction, what is the check?

Senator Lee:

If you find a section of this bill that you deem to be unreasonable or too unresponsive, I am willing to change it to support whatever you feel needs to be changed.

J. David Fraser, Executive Director, Nevada League of Cities and Municipalities:

There are four broad elements of governing authority. They are structural, which has to do with the way the government is set up; fiscal, which has to do with your powers to raise and use monies; personnel, which has to do with things like collective bargaining; and functional authorities, which has to do with day-to-day operations. The day-to-day operations are what this bill addresses. It does not touch collective bargaining or the power to raise taxes, et cetera. The structural, fiscal, and personnel elements would still be reserved to the state.

Anything the Legislature has already provided guidance on in statute would still govern the operations. The local governments could not do anything contrary to statute. This bill will not change any statutes that presently apply to local government. In addition to that, if at any time a local government passes an ordinance in an area where statute is silent and the Legislature deems it to be inappropriate, the Legislature can legislate otherwise. That significantly narrows what we might deal with. This bill is more of an efficiency issue where local governments deal with minutiae and have been waiting for 18 months for a session to receive statute authority. This would also increase legislators' efficiency. A Legislative Counsel Bureau study showed that over the last three sessions, 12 percent of bills dealt with local government issues.

Chair Kirkpatrick:

Did that study show how many of those bills actually made it out?

David Fraser:

I do not know.

Assemblywoman Neal:

I understand the flexibility. I am going under the element of functionality under Section 4. It is also repeated in section 11. It says, "A board of county commissioners has all powers granted it by statute; and all other powers necessary or desirable in the conduct of county affairs, even though not granted by statute." I heard your explanation. I am turning that explanation around onto the language of "even though not granted by statute," and I am getting into the functionality of when you make a decision which is not necessary, but is desirable to do, and it is not granted by statute, what is that scope, and how large is it?

David Fraser:

Local governments do a lot that is necessary and a lot that is desirable. We talked earlier about parks and recreation. Those are not necessary functions; they are desirable functions. It is important to recognize a governing body—whether it is a legislature, a county commission, or a city council—makes decisions about what is desirable for its constituents. I do not think this bill would aim at what a special interest group would think is desirable. That would have to be something that is determined by the governing body in a public process.

Chair Kirkpatrick:

I have always had grave concerns about expanding powers. For example, enterprise funds, more cops, redevelopments, I could go on and on about some things I have seen that have not necessarily worked out for the best interest of the constituents. Let me expand on Assemblywoman Neal's point. The section she is referring to does not necessarily limit you to just functional. You could put financial and the other pieces in. For example, there is an advisory question on the ballot to raise a quarter-cent sales tax for a specific project. This bill tells me that it would not have to come back to the Legislature to get that done. We have had the opposite effect with district attorneys: unless it is specifically clear, you can move heaven and earth. We have gone round and round sometimes, and there could be a lot of lawsuits that are determined in courts if it is not clear in this Committee when the hearing is done.

My questions are on section 3, subsection 2, regarding "any doubt as to the existence." That makes me nervous because it is very wide open. I do not know what other states this legislation was modeled from. Also, by amending NRS Chapter 244, that applies to every single county in the state. Chapter 266 of NRS applies to every single city in the State of Nevada. I do not know what other states allow that to happen. Other states limit it to the larger metropolitan areas. Let me give you an example of when things go wrong: enterprise funds. I have a bill that is so messed up now that I cannot even fix it

because there are some long-term obligations. I see that happening here because you cannot come back next session and fix it. By then there will be some vested interest in it; there is some existing bonding, some contracts et cetera that then would become a nightmare to try to fix.

Assemblyman Livermore:

My question is on the "shall nots." Page 3, lines 15 and 16 state, "shall not impose a service charge or user fee greater than the actual cost of providing the services." What is the intent of that?

Senator Lee:

The service charge would be if you are producing documents, user fees would be . . .

Assemblyman Livermore:

For example, a swimming pool fee. A swimming pool fee costs a certain amount of dollars. What does that include?

David Fraser:

As you are establishing those fees and what the cost of providing a service is, there are some things you cannot get your hands around, and it is hard to identify all the things that go into that. I believe your fear is that this would result in some cases where the fee is less than the cost of providing the services because you can only quantify certain portions.

Jeff Fontaine, Executive Director, Nevada Association of Counties:

Any fee that would be imposed by a county would be done by the governing body and would be done in a public hearing. It would presumably be done based on generally accepted accounting principles. This is no different than the language in place for a number of state agencies when they do their rulemaking and adopt fees for everything from restaurant inspections to permits, et cetera. They propose the fee and have workshops and public hearings in a way that is based on generally accepted accounting principles. I cannot answer specifically what the fee would be for a swimming pool or what the charges would be, but it has to be taken on a case-by-case basis.

Assemblyman Livermore:

I guess I could ask a district attorney what this means. I would like to narrow this down a little more to give good leadership and guidance to the legal folks in the 17 counties.

David Fraser:

Section 7 says, "Except as expressly granted by statute, a board of county commissioners shall not," and it goes on to list several items. This is something they would not do except as it was granted by statute. Again, where the statute already addresses something, that would govern this. In terms of the legality of the modeling language that was chosen, Senator Care had a lot to do with choosing the language. I was not on the committee, but I believe it was the intention of the committee that we try to narrow this as much as possible. Past legislators have always indicated that they did not want to grant some reasonable portions. This bill is an attempt to narrow that and deals just with the day-to-day operations. This bill is taking baby steps in dealing with self-government.

Assemblyman Anderson:

I understand we are not giving counties and cities the power of taxation but with the functional capacity, could this bill enable local governments to possibly put the state on the hook for something? It has always been that what happens at the local level is dictated by statute from above. Would this allow local governments enough latitude to the point where it would put the state on the hook for anything fiscal?

David Fraser:

I do not foresee that. If you look at home rule, you are not talking about either/or. You are talking about a spectrum. As you look across the country at the different states, some, like Nevada, are at one end of the spectrum with home rule. There are some other states that are at the other end of the spectrum, where broad authority in all areas is granted to local governments. Many states fall somewhere in between. This bill would nudge us a little further into the spectrum. Since this is functional and not fiscal, I cannot see where this would put the state on the hook financially.

Jeff Fontaine:

I would like to address the issue raised regarding whether this should apply only to the larger counties. Assembly Bill 42 allows two rural counties to lease an airport without doing an appraisal because they are unique in that the property was given to the counties by the federal government. If this bill were to pass, the counties would still need to come to the committee. Assembly Bill 45 dealt with the district attorney in Esmeralda County. That bill was unique to Esmeralda County. Between this Committee and the county, a lot of time was spent on that bill. It was very complex because we had a hard time trying to figure out how to separate Esmeralda County with a part-time district attorney and not include the rest of the counties. I think that illustrates that there are many complexities and one size does not fit all. Also, the most important part

of that bill is that it did not address any past issues with Esmeralda County. On a going-forward basis, it certainly helped. If S.B. 385 (R1) were to pass, Esmeralda County would be able to enact an ordinance to address their district attorney's office hours.

Assemblywoman Bustamante Adams:

This is a hard sell for me because, as part of the Taxation Committee, my faith in some of the local governments has not been strong. Some have done well, and I look forward to them continuing to be successful. Some of them have not; they have made very poor decisions. I understand the day-to-day operations and the barriers that may exist. I am pleading for some more creativity. I am not willing to go from one to ten in one step, but I may be ready to go from one to two. I am not sure how to reward those local entities that have done a good job.

Senator Lee:

This bill is going from one to two, just as you are hoping for. I can see when there is concern with a bill, those questions need to be answered. We are willing to work very closely with you to craft this bill in an effort to bring a higher comfort level.

Chair Kirkpatrick:

I still feel section 3, subsection 2, is very broad. Why did we not just start with the counties, because the counties do not have the ability to have charters? Section 1.1, subsection 2 of the *Las Vegas City Charter*, which is consistent with other charters, states: "This Charter being necessary to secure and preserve the public health, safety, prosperity, security, comfort, convenience, general welfare and property of the citizens of the City, the rule of strict construction has no application to this Charter, and it is expressly declared that it is the intent of the Legislature that each of the provisions of this Charter be liberally construed in order to effect the purposes and objects for which this Charter is intended, and the specific mention of particular powers must not be construed as limiting in any way the general powers which are necessary to carry out the purposes and objects of this Charter." Almost every charter has that flexibility at the bottom.

I understand giving this to the counties, because it is ridiculous that the counties have to come here to be able to tow abandoned cars from a parking lot. I do not know how we limit this. I would be much more comfortable if we started with the counties who do not have the same parity. Many cities can and do stretch their charters. But the counties have no ability to fix some of their basic needs. Some district attorneys are elected, and their opinion is much different than others. We have some district attorneys that do not work as

often as others. We have some district attorneys that follow the guidelines specifically. This is much more than I wanted to see because I am concerned with the abuse. I am going to use collective bargaining as an example. The Legislature is getting beat up about something that was put in place a long time ago. Local government has the ability to say no, but they do not necessarily exercise that right.

If we want to give them more power to take care of the basic needs, I am not opposed to that. I am opposed to making it whatever some district attorney might think. I do not have a lot of faith in district attorneys being able to determine what desirable or necessary is.

Senator Lee:

From my understanding, the counties do not have a charter, and the cities have the opportunity to have less restriction. If somewhere this Committee could work to give the counties a little bit more flexibility, we would appreciate that.

Jeff Fontaine:

The issue of allowing counties to have charters similar to cities was discussed during the interim. That would require a constitutional amendment.

Chair Kirkpatrick:

Maybe we could give the counties a little more flexibility with this bill without having to change *The Constitution of the State of Nevada*. My understanding is the Constitution is only required to be changed when you establish a charter. If we give the counties a little more flexibility with this bill, that would be equivalent to a charter.

Jeff Fontaine:

I would imagine you could accomplish that by doing it through this bill. It would involve more research because every charter is different.

Chair Kirkpatrick:

For the most part, the statute that I just read is consistent in most of the city charters.

David Fraser:

I appreciate your comments. Not all cities have a charter. Even for those who do have charters, I think this bill would be an important statement of legislative intent. I certainly think it would make all the sense in the world not to exclude the cities in this bill.

Chair Kirkpatrick:

Any more questions? [There were none.]

Senator Lee:

I would like to go back and direct my committee to go in the same direction as this Committee.

Chair Kirkpatrick:

Anyone here wishing to testify in support of S.B. 385?

Terry J. Care, Private Citizen, Las Vegas, Nevada:

I sat on the interim committee and have listened to the testimony this morning, and I can possibly answer a few of the questions raised. First, I would like to give a brief background. I came to the Legislature in 1999. I had never heard of home rule or Dillon's Rule, but in my first session, Senator Joe Neal had a bill to abolish Dillon's Rule. There was a lively discussion and the legislation did not go anywhere. I was intrigued by the subject matter. In my six regular sessions, we frequently had bills from cities and counties, and I would find myself wondering why we were looking at a bill like this, this is the business of a particular city or county. I wondered if there was some way to make life easier for local government and not burden the Legislature with more bills than necessary pertaining to the powers of local government.

It turns out there was an interim study in 1955. This debate has been around for a very long time. Nothing came of it. In 2007, I had a bill to create an interim study; it did not survive. The interim study after the 2009 Session was a result of two bills that were rolled into each other.

There are 31 states that are called Dillon's Rule states. The Western states include Washington, Idaho, Hawaii, and Arizona. The states that are considered home rule states are Montana, New Mexico, Oregon, Utah, and Alaska. Montana is interesting because they amended their constitution in 1972 to make it a home rule state. I think the same thing happened in New Mexico. Approximately nine states are considered hybrid, including California, which, because of the success of the initiative in that state, has crippled the power of the legislature.

You have heard testimony about the four functions: structural, personnel, functional, and fiscal. Today we are talking about functional in a very limited role. The State of Nevada has never said it was going to adopt Dillon's Rule; it is an 1868 Iowa Supreme Court decision. It is true that in our state there is a mandate in the *Constitution* for the Legislature to establish a system of county and township governments that must be uniform throughout the state. Then

there are all of these statutes promulgated from that, and case law that has evolved from that as well. Nevada is very strongly a Dillon's Rule state. It is at the bottom of the spectrum.

My intent was to say, "Let us make life easier for both the Legislature and the local government." Nevada is one of only seven states where the Legislature only meets every other year. Bills die for many reasons or for no particular reason. Sometimes you never find out why they die. If you have a city or county that comes before the Legislature and says, "This is one of our allotted bill draft requests. We need a bill that does whatever." It can die having nothing to do with the merit of the bill. It just dies. Now the county must wait two more years and try again.

The whole idea here is to say there must be some simple way to allow the counties, on a daily basis, to carry out the powers they need to function. When I hear discussion about collective bargaining, that is all governed by NRS Chapter 288. This bill would not change that at all. It would not disturb current law. As to fiscal, that usually goes to taxes. I made the mistake in 2009 of introducing a bill that would have allowed counties to raise certain taxes without having to come to the State Legislature. The bill never got out of committee; it was perceived as a tax bill. The bill actually said the county can raise taxes, repeal taxes, or decrease taxes. Again, it did not go anywhere.

This bill specifically has a prohibition on imposing a tax. Structurally, there is *The Constitution of the State of Nevada*, the NRS, and state law. All we are left with is limited functional home rule. I agree with Senator Lee; this basically goes from a one to a two. That is the intent.

Assemblywoman Neal is correct; the language reads the same throughout. Sections 3, 4, and 5 apply to counties. Sections 10, 11, and 12 apply to towns, and sections 16, 17, and 18 apply to the powers of cities. Section 3 says, "The rule of law that any doubt as to the existence of a power" That is in there because currently when the courts look at an issue as to whether a county or city can do something on their own, if there is any doubt about it, the courts come down on the side of not being allowed to do it. Section 4 states, "The rule of law that a board of county commissioners can exercise only powers" This is basically abrogating Dillon's Rule, but only to the extent that this bill allows that to happen. I think subsection 1 of section 4 has to be read in tandem with subsection 2, "A board of county commissioners has: all powers granted by it by statute; and all other powers necessary or desirable" It is interesting because necessary is actually contained in Dillon's Rule in the holding, it says, "A local government is authorized to exercise only those powers which are expressly granted

necessarily or fairly implied." This bill does not say "fairly implied"; it says "desirable." What we are talking about is that there are times in local government when it is not necessary, but it is desirable. Section 5 says, "A board of county commissioners may exercise any power it has to the extent that the power is not expressly" I believe that language is consistent with the language contained in sections 3 and 4. The intent is simply to say in certain cases local government needs to do stuff to carry out everyday functions. I know that, in some cases, counties and cities, when they start contemplating the upcoming legislative session, look at the bill drafts and wonder if they need a bill for something specific. This is an incremental approach; it is not a big step.

Assemblywoman Neal:

In section 3, subsection 2 states, "Any doubt as to the existence of a power of a board of county commissioners must be resolved in favor of its existence." How does that work? The way I read that is if there is any doubt about their power, whenever it is debated, we must favor their existence. That is a presumption that they are right.

Terry Care:

That is what it means. Notice it references the rule of law. When the courts examine this, if there is any doubt, the doubt favors the prohibition of doing it, absent some express authority to do so. I would like to point out that the bill itself does not delete existing law. If this bill passes with all the current prohibitions in place, if a county or city attempted to do something, if it went before the courts, the court would determine all doubt must be resolved in favor of the local government.

Assemblyman Ellison:

This is just a very small step for something that is really needed for the counties. We have been discussing this for years and years. We have tried everything to make it so the counties can operate. The problem is if you have an issue that must come to the Legislature, if they tack something on it and it dies, you must wait another two years. I believe it is very important that this passes.

Chair Kirkpatrick:

Can you give some specific examples of how this bill would benefit the counties?

Assemblyman Ellison:

We have a bill on junk cars. We have a major problem with them and we should have been able to address it locally. The district attorney thought it was

a state issue, not a county issue. That is just one of many issues that the counties face on a day-to-day basis. The other important thing is that every county is unique in nature, and it is hard to write a bill that blankets all the counties.

Assemblywoman Pierce:

I disagree that this is a tiny step. This is getting rid of Dillon's Rule.

Cadence Matijevich, Legislative Relations Program Manager, Office of the City Manager, City of Reno:

Our city council has voted to take a position of support for this bill. There has been much conversation in this session about shared sacrifice and cities and counties taking on additional responsibilities. Currently, if we are asked to take on new or additional responsibilities or services, we do not have the authority within statute. This would give us the ability to adopt and implement those services efficiently and effectively. This could give us some assistance in shared services and perhaps consolidation of some barriers. One example from the City of Reno is graffiti abatement. The City wished to enter into a program whereby we could abate graffiti on private property. Even with the private property owner's permission, we did not have the authority to do that, and we needed to come before the Legislature to get that authority. Another example is drag racing. We had a real problem with drag racing on our streets and did not have the ability to enact ordinances specifically relating to drag racing. We had to bring forth a bill. Fortunately, we were successful with both of those measures. If we had not been successful, we would have had to wait another two years, dealing with those issues with the limited tools that we had in our toolbox under the statutes.

Assemblywoman Neal, perhaps I could try to address your concern. I think both of the examples just used show that this bill is desirable, not necessary. Neither of those examples were necessary to continue the operation of our city. Certainly they were desirable. Perhaps we could look at adding some clarifying language that could limit the scope and give you a better comfort level with the language.

Assemblyman Livermore, I would like to try to address your question. You will note that the bill states it shall not "Impose a service charge or user fee greater than" The understanding is to address some concerns that this would give us the ability to raise fees that were in fact greater than. That is intended to be limiting language rather than enabling language so that we do not have the ability to raise fees beyond the costs.

We are asking you for our home rule learner's permit. We know you are nervous, but we are here to show you that we can be responsible and live within the regulations that you have given us, and we are eager to prove that we can be good drivers.

Assemblyman Goedhart:

Are you saying that until Legislature passed a bill, there was no other law or rule on the books to address issues like drag racing and graffiti? It seems that in the absence of those law changes, there must have been other legal means by which to address those issues.

Cadence Matijevich:

I did not mean to imply that. We were looking to have the authority to go onto private property with the owner's permission and abate graffiti. In looking in the statutes, there was not anything that our city attorney could find that gave us that authority. In that case, yes, we felt that the authority was lacking and there was not something within NRS that gave us the ability to do that. In the case of drag racing, certainly reckless driving was there. We were looking to tailor ordinances specific to areas of our community, and we did not find the specificity within NRS.

Assemblyman Anderson:

I am reading Dillon's Rule. It is either expressly granted, necessarily or fairly implied, or an incident to the powers expressly granted are essential to the accomplishment to the declared purposes of local government. When I hear the Chair talking about the Las Vegas City Charter, that expressly is left pretty open. General welfare clauses are pretty flexible clauses. If I heard right, the general welfare clause is in many city charters.

Cadence Matijevich:

You are correct. I think, as you have heard, some city attorneys and district attorneys are more cautious in their interpretation of what expressly is and what powers we are granted. Some interpret Dillon's Rule very strictly, to the letter of the law and perhaps not to the spirit of the law. It has been our experience in the City of Reno that our city attorney has been one of those who interprets Dillon's Rule very narrowly and has directed our counsel that we do not have authority to enact ordinances without specific expressed authority through NRS.

Terry Care:

I know there is some trepidation here, but again, what is intended is a very small step as to functional home rule only. If it does not work out, the Legislature holds all the cards. This can be revisited in two years.

Chair Kirkpatrick:

Any other questions? [There were none.] Anyone else here wishing to testify in support of this bill? Anyone in opposition?

Juanita Cox, representing Citizens in Action:

I have submitted written testimony ([Exhibit E](#)). I would also like to share some experiences that I have had personally. I am a citizen activist. Years ago, a group of us decided that the local governments, cities and counties, were totally out of control. That was when we realized there was Dillon's Rule, and we could go to the state and get laws passed or repealed to the benefit of the citizens.

During the interim years, I would go to the cities and counties and inform them of the rules, laws, and statutes that they were not following. When the cities and counties did not follow those rules, after a few notices, I sued them. I am a paralegal and use my own funds. One of the problems was the City of Reno gave me a notice that they were going to enter my property. I live in Storey County, and the City of Reno is nowhere near my property. I informed my district attorney and the City of Reno that if they dare trespass on my rural, agricultural property, I would arrest that person for trespassing. They did not come on my property.

Another problem with the City of Reno was when my husband's office burned down. We later found that the City of Reno's inspector did not follow the building code and did not require fire walls. The next legislative session, the City of Reno tried to get a bill passed that took away any responsibility from the inspectors on building restrictions. Our insurance company paid for the damage, but it was due to the government not following the rules.

Another problem was with Washoe County and a number of things they did regarding code enforcement. They would come on people's property without a warrant. When pushed, they would create their own warrant. They would take a regular felony search warrant, cross out the inapplicable items and put in misdemeanor. They could have followed the administrative code which clearly gives them power to do things, but they did not do that. In that particular case, they also used Washoe County helicopters. They would fly very low, which was considered an illegal search. I brought that to the attention of the sheriff, and with his continued abuse of the Washoe County Code enforcement, I was able to pull his funding for his helicopter budget.

These are just a few of the issues. I have several more examples. I just want to tell you that there are so many abuses already by our governments. They are not following the ordinances or county codes they already have. We just had a

case recently in Washoe County where nobody bothered to do an audit. Why? If you put the burden on the people, the people created the governments. You are, by releasing Dillon's Rule, giving those governments our power. How do the people go against someone that is equal? This is also giving us unfair equality. You are giving the governments the favor in court. It takes years and years to get to court, especially when people cannot afford to go to court. This bill is giving us nothing. It is taking away the people's power, which we have had for hundreds of years, and giving it to entities that have already shown abuse.

Chair Kirkpatrick:

If you have more examples you would like to submit to my office, I can put it on Nevada Electronic Legislative Information System for the Committee.

Assemblyman Ellison:

I am looking at this differently. You said you went to the different agencies. To me, if they had the local agreement, you could have gone to the county commissioners and voiced your opinion. It would take much longer if you had to wait two years before you could come to the Legislature. Currently, you cannot go in front of the commissioners and tell them your concerns; that is the problem. We hear this all the time. We are strong believers in private property rights. We believe in the rights of the people, and we follow the letter of the law. This puts a tool in where a voice can be heard at the county level. How many people can come from Elko County to the Legislature on an issue? This puts a voice to the county that can be heard.

Juanita Cox:

Our voice is heard through people like me, through activists that come here. Elko can pick up the phone or email me and give me the voice that is needed for the people. I am not paid, but our voices must be heard. Our voices would also be restricted for two years to come back here and complain about the abuses. I am begging you, for the people's sake, do not change Dillon's Rule.

Chair Kirkpatrick:

Anyone else wishing to testify in opposition of S. B. 385 (R1)? Anyone neutral? I will close the hearing on S.B. 385 (R1). I will now open the hearing on Senate Bill 392.

Senate Bill 392: Creates the Nevada Advisory Committee on Intergovernmental Relations as a statutory committee. (BDR 19-169)

Debra March, Councilwoman, City of Henderson:

I had the honor of serving as Vice Chair of the Interim Technical Advisory Committee for the Intergovernmental Relations (ACIR). Thank you for making it possible for me to testify today from Las Vegas. Washoe County Commissioner David Humke, the Chair of the ACIR, is attending a joint meeting with the City of Reno and sends his regrets that he cannot be here today.

[Read from written testimony ([Exhibit F](#)).]

Chair Kirkpatrick:

Are there any questions? [There were none.]

Jeff Fontaine, Executive Director, Nevada Association of Counties:

We enthusiastically support this bill and would like to see ACIR made permanent.

J. David Fraser, Executive Director, Nevada League of Cities and Municipalities:

I would like to thank Councilwoman March for the job she did as Vice Chair of the ACIR Committee. I would like to add the League's support of this bill.

Chair Kirkpatrick:

Anyone else who would like to testify in support of S.B. 392? Anyone in opposition? Anyone neutral?

Debra March:

We would like to see ACIR continue and we look forward to meeting again.

Chair Kirkpatrick:

I was opposed to ACIR; however, they have proven me wrong. They have had some successful issues and are a benefit to both local governments and the state. I will now close the hearing on S.B. 392. This meeting is adjourned [at 10:47 a.m.].

RESPECTFULLY SUBMITTED:

Jenny McMenomy
Recording Secretary

Nancy Davis
Transcribing Secretary

APPROVED BY:

Assemblywoman Marilyn K. Kirkpatrick, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: May 2, 2011

Time of Meeting: 9 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 384 (R1)	C	Senator Lee	Written Testimony
S.B. 385 (R1)	D	Senator Lee	Written Testimony
S.B. 385 (R1)	E	Juanita Cox	Written Testimony
S.B. 392	F	Debra March	Written Testimony