

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

**Seventy-sixth Session
February 16, 2011**

The Senate Committee on Government Affairs was called to order by Chair John J. Lee at 8:08 a.m. on Wednesday, February 16, 2011, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to the Grant Sawyer State Office Building, Room 4406, 555 East Washington Avenue, Las Vegas, 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 John J. Lee, Chair
Senator Mark A. Manendo, Vice Chair
Senator Michael A. Schneider
Senator Joseph (Joe) P. Hardy
Senator James A. Settelmeyer

GUEST LEGISLATORS PRESENT:

Senator Ben Kieckhefer, Washoe County Senatorial District No. 4
Senator Dean A. Rhoads, Rural Nevada Senatorial District
Assemblyman John C. Ellison, Assembly District No. 33

STAFF MEMBERS PRESENT:

Michael Stewart, Policy Analyst; Supervising Principal Research Analyst
Heidi Chlarson, Counsel
Cynthia Ross, Committee Secretary

OTHERS PRESENT:

Curtis Calder, City Manager, City of Elko
Michael J. Franzoia, Mayor, City of Elko
Shanell Owen, City Clerk, City of Elko
J. David Fraser, Executive Director, Nevada League of Cities and Municipalities
Dwight Dortch, City Council Member, Ward 4, City of Reno
George Ross, Las Vegas Chamber of Commerce

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Rusty McAllister, President, Professional Fire Fighters of Nevada
Gail C. Tuzzolo, Political Coordinator, Nevada State AFL-CIO
Debra March, City Council Member, City of Henderson; Vice Chair, Interim
Technical Advisory Committee for Intergovernmental Relations
Wes Henderson, Deputy Director, Nevada Association of Counties

CHAIR LEE:

I am opening this meeting today with Senate Bill 134. This will allow the City of Elko to change the timing of the general municipal elections.

SENATE BILL 134: Amends the Charter of the City of Elko to change the timing of the general municipal election. (BDR S-543)

SENATOR DEAN A. RHOADS (Rural Nevada Senatorial District):

Senate Bill (S.B.) 134 changes the voting cycle in the City of Elko from the spring election to the fall election. This is a cost-saving measure.

CURTIS CALDER (City Manager, City of Elko):

Senate Bill 134 is transitioning the City of Elko to the county election cycle. We are the final city in Elko County that is not on this cycle. This transition will allow us to also utilize the county election equipment which will save \$80,000. We can also save about \$30,000, every other year, on equipment maintenance. This bill can also increase voter turnout. June elections are not well-represented, and we would like to increase voter turnout in our city election.

CHAIR LEE:

How were residents notified of this change, and what is their response?

MR. CALDER:

This is the third attempt to get this legislation passed, so the issue is not new to our community. Before we submitted the bill draft request (BDR) to the Legislature, we asked the City Council on an agenda meeting if they wanted to pursue the legislation. The City Council voted unanimously. There was no public comment. Our City Attorney drafted the BDR; it came back to the City Council for review, and there was no public comment. We recently held a public hearing at City Hall and, again, no public comment. Our Chamber of Commerce Government Affairs Committee also wrote a letter supporting S.B. 134.

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MICHAEL J. FRANZOIA (Mayor, City of Elko):

The public is aware of the proposed change. We had advertisements under public notices in the newspaper, and we discussed the change on my weekly radio program. The radio reporter informed us we received positive feedback.

CHAIR LEE:

This will save the City of Elko money. How will it increase election turnout?

MAYOR FRANZOIA:

We never get a good voter turnout, and there is confusion because of Elko's proximity to Spring Creek and to other outlying areas. It is often mistaken that our City Council governs them. This legislation, by putting Elko's election into perspective, will help clarify the City of Elko's election and can increase voter turnout.

SENATOR SETTELMAYER:

This bill will not extend term limits. I want to ensure people know that people will be affected by this legislation as their terms shorten.

MAYOR FRANZOIA:

Yes, term limits will not be extended, and some terms will be shortened.

ASSEMBLYMAN JOHN C. ELLISON (Assembly District No. 33):

I support this bill. This legislation will put all elections in perspective.

SHANELL OWEN (City Clerk, City of Elko):

I am here in support of S.B. 134.

J. DAVID FRASER (Executive Director, Nevada League of Cities and Municipalities):

We support S.B. 134. It makes sense to bring Elko into the same election cycle as all other incorporated cities in Elko County.

SENATOR MANENDO:

Did the League take a position on extending this change to other municipalities?

MR. FRASER:

The League has not taken a position on other legislation that would affect other municipalities and time of elections. We have considered changes on a case-by-case basis because of community differences.

CHAIR LEE:

The hearing is closed on S.B. 134, and we are going to open the hearing on S.B. 124.

SENATE BILL 124: Revises provisions governing the displacement or limitation of competition in providing services by certain local governments. (BDR 21-750)

SENATOR BEN KIECKHEFER (Washoe County Senatorial District No. 4):

Early discussions about the budget proposal clarified an effort to require local governments to provide more services than we provide as a State. I spoke with the City of Reno about how it is dealing with the budget. The City has ongoing budget problems and is looking at layoffs and other solutions for its fiscal problems, including the privatization of city services. Reno identified the language in S.B. 124 as an area where we can offer the City flexibility to maximize taxpayer dollars to provide the best and most efficient services at the lowest cost.

Senate Bill 124, section 1 states section 081 of chapter 268 of *Nevada Revised Statutes* (NRS) relates to language that offers the ability to franchise services within an incorporated city. Section 1, subsection 11 includes language considered as a potential detriment to franchising additional areas that cities would want to franchise or privatize services more broadly because they have not been demanded by the inhabitants of the city. It has been suggested that it would be necessary to go to a ballot question, and that not getting approval from the citizens could potentially offer a legal challenge from those who do not want to see services privatized.

DWIGHT DORTCH (City Council Member, Ward 4, City of Reno):

Senate Bill 124 will help Reno and Nevada's incorporated cities to take actions in the best interest of the taxpayers.

In Reno, we had the unfortunate duty of laying off many hardworking employees who our residents rely upon for services. We do not see economic conditions improving soon.

To provide adequate, economical and efficient services to taxpayers, incorporated cities are permitted to displace or limit competition for legally authorized city services.

It is incumbent upon cities to determine if the costs for the cities to provide these services is competitive with the private sector in these economic times.

This bill seeks to remove the requirement that such services be demanded by the residents of a city, and the only known method to determine such a demand is a vote of the people. Holding an election for this purpose is neither efficient nor economical, and it is costing taxpayers thousands of dollars.

Senate Bill 124 would allow city officials to make decisions in the best interest of their constituents.

CHAIR LEE:

Have you ventured into consolidation, such as library districts, police districts, fire districts and in areas addressing information technology (IT) to save money?

MR. DORTCH:

We are looking into different types of consolidation. When we look at consolidation of police services, there are challenges. There would be efficiencies in consolidating sheriff and police, but with cherry-picking rules, it makes costs astronomical. We are looking at IT with intergovernmental agreements between Washoe County and the City. Sixty-eight percent of our budget is public safety where the biggest impacts can occur, but cherry-picking rules do not make it economical.

SENATOR MANENDO:

What areas are you looking at privatizing? You brought forth this bill for a reason.

MR. DORTCH:

We are looking at all areas of government where we can become more efficient. Last week, we authorized another 100 layoffs in the City of Reno. We need to

provide the best possible services to the citizens at the best price. Our budget problems are causing us to cut programs, so we need to find better ways to do business. We have, for example, 650 cars in our carpool. It costs over \$45 to do an oil change. I can take that car to Jiffy Lube and pay \$24. If I take the work and bid it, I might to get the work under \$20. Substantial excesses occur in government, and this bill allows us to go out and determine whether we are getting the best price for the taxpayers.

SENATOR MANENDO:
Who does the oil changes now?

MR. DORTCH:
We do them in-house.

SENATOR MANENDO:
The oil changes are \$45 each?

MR. DORTCH:
Correct.

SENATOR MANENDO:
Are you looking to privatize firefighters? Are you looking to privatize your staff? Where do you want privatization to occur?

MR. DORTCH:
Maintenance is another example where privatization can occur. We are looking at all options.

SENATOR MANENDO:
Parks and recreation and public safety would also be considered? Are you looking for privatization everywhere?

MR. DORTCH:
There are difficult areas to privatize. It is difficult to privatize senior management, but functions within government can be privatized, and there can be savings. The purpose of this legislation is to allow us to find out. We are competing against ourselves. If we can do it better and cheaper, it would stay in-house, but if we cannot, we need to go with the best cost.

SENATOR SETTELMAYER:

Does this bill allow for a municipality to start offering new services that voters have not requested?

SENATOR KIECKHEFER:

In section 1, subsection 11, the bill explicitly states: "Any other service which the city itself is otherwise authorized by law to provide." This says that if the city is authorized to provide the service, it is incorporated into this bill. It does not expand the powers of an incorporated city. It only removes the language that the service would have to be demanded by the inhabitants of the city because there is no clear indication on how to judge that other than potentially going to a ballot.

MR. FRASER:

The League's board has not taken a position on this bill, but it is consistent with our policy to encourage legislation that increases flexibility and the ability to react to changing financial conditions. City councils act in the light of day. These decisions would be made in public, such as in public hearings and public notices. As a matter of efficiency, proposals in this bill are appropriate.

GEORGE ROSS (Las Vegas Chamber of Commerce):

We support S.B. 124. This is an excellent step toward allowing local governments to maximize the services they supply as efficiently as possible.

RUSTY McALLISTER (President, Professional Fire Fighters of Nevada):

We stand in opposition to this legislative change. This law was initially established in 1973, and it included police protection, fire protection and services that could limit competition. The law was amended by A.B. No. 588 of the 63rd Session as it related to a 1984 study set up by A.C.R. No. 18 of the 62nd Session. This study was titled—"Effect of Federal Antitrust Laws on the Licensing of Business by Local Governments"—based on *Community Communications Co., Inc. v. City of Boulder* 102 S. Ct. 835 (1982) that dealt with antitrust laws concerning local governments limiting competition. The Sixty-third Legislative Session took the study's results and changed the law. The subcommittee that dealt with that legislation removed police protection and fire protection from the statute. The study resulted in the provision "demanded by the inhabitants of the city" found in section 1, subsection 11. It was necessary to provide for the antitrust that citizens have the right to demand certain services. This bill would take that right away.

Senate Bill 124 would take away the public's voice. The issue of transparency arises as local governments could do things out of the public's vision. Senator Kieckhefer and Mr. Dortch mentioned the voice of the public and that the ballot initiative would be taken away. It was said holding an election would be too expensive if the public demanded one or a city council wanted one. They are taking the voice of the public away.

Mr. Dortch mentioned difficulties with the law and that consolidation would be expensive due to cherry-picking rules. These contracts were negotiated by employees and employers. The City of Reno negotiated these contracts with public employee groups, and now—because they cannot get the concessions they want—they are coming to you. They want you to change the law to take away the voice of the public so they can do what they want. Mr. Fraser mentioned there would be public hearings, but it is not required by law under the A.C.R. 18 Subcommittee in 1984. I read it to say changes had to be posted in a newspaper.

GAIL C. TUZZOLO (Political Coordinator, Nevada State AFL-CIO):

I want to set a framework for privatization. I sat through an amazing presentation at the National Conference of State Legislatures by a think tank that has done many studies on privatization. Their studies show privatization costs less in the beginning but after three years, costs increase. We are in a fiscal crisis. Imagine where we will be in three years.

Have communities the size of Reno privatized fire departments?

MR. MCALLISTER:

Yes, there are cities that have privatized fire departments. Two companies I know are Wackenhut and the other is Rural/Metro Fire Department. Rural/Metro has a base of service in Arizona. The largest service I know is in Tucson, and they were recently voted out of the City of Scottsdale because residents wanted their own fire department, not a private one.

SENATOR MANENDO:

How many people man a fire truck?

MR. MCALLISTER:

Fire departments in Reno, Las Vegas, North Las Vegas, Henderson and Clark County respond with four firefighters on an engine and four firefighters on a

truck company. The City of Sparks is responding with three firefighters on an engine and a truck company. This is due to budget constraints and through attrition. I represent 18 firefighter locals in Nevada, and the vast majority respond with 4-man engine companies.

SENATOR MANENDO:

Is this a national standard? What is in the best interest of public safety?

MR. McALLISTER:

The national standard is four firefighters, but many communities use three and some communities use two. There is an Occupational Safety and Health Administration (OSHA) standard of two in and two out. This says that two firefighters must be in the "ready" position before sending two firefighters to the inside of an interior structure fire. Three-man or two-man engine companies must wait for another engine company to arrive for the manpower to follow OSHA's guidelines.

Studies by the National Institute for Occupational Safety and Health in conjunction with the International Association of Fire Fighters tested timing for fire and emergency medical services. They tested the different time frame for getting tasks accomplished using four-man, three-man and two-man companies. It is clear that four-man engine companies are better than having three-man companies.

VICE CHAIR MANENDO:

Sparks is running with three-man engines. What is the City of Reno running with?

MR. McALLISTER:

They are running with four-man engine companies because their collective bargaining agreement states they will have four-man engine companies.

VICE CHAIR MANENDO:

We will close the Senate hearing on S.B. 124, and we now listen to a staff presentation.

MICHAEL STEWART (Policy Analyst; Supervising Principal Research Analyst):

I am presenting an overview on the "Abstract and Summary of Recommendations for the Legislative Commission's Committee to Study Powers Delegated to Local Governments" and providing a handout ([Exhibit C](#)).

In 2009, the Nevada Legislature enacted S.B. No. 264 of the 75th Session and this created an interim study called the Legislative Commission's Committee to Study Powers Delegated to Local Governments (264 Committee). The Committee was chaired by Senator Lee, and Heidi Chlarson and I staffed the Committee. Section 8 of the bill required the 264 Committee to look at the feasibility of increasing powers to local governments and evaluating fiscal impacts as they relate to Dillon's Rule. Section 9 created an advisory committee for intergovernmental relations. We call this committee the Interim Technical Advisory Committee for Intergovernmental Relations (ACIR). It consists of six local government representatives and three representatives from State agencies. The purpose of ACIR is to foster effective communication, cooperation and partnerships among State and local governments in Nevada with the goal of working to improve the delivery of government services in Nevada.

This Advisory Committee was created to work with the 264 Committee. They have ongoing meetings and present recommendations to the 264. A number of these recommendations were incorporated.

DEBRA MARCH (City Council Member, City of Henderson; Vice Chair, Interim Technical Advisory Committee for Intergovernmental Relations):

I am presenting a brief overview of the activities of ACIR. First, other members of ACIR include Washoe County Commissioner David Humke, who is the chair; Esmeralda County Commissioner Nancy Boland; Dino DiCianno, Executive Director, Department of Taxation; Clark County Commissioner Chris Giunchigliani; City of Mesquite Mayor Susan Holecheck; City of Sparks Mayor Geno Martini; Scott Rawlins, Deputy Director, Nevada Department of Transportation; and Michael J. Willden, Director, Department of Health and Human Services.

The ACIR was established by section 9 of S.B. No. 264 of the 75th Session. The ACIR was charged to engage in activities and to conduct studies that included: the structure of local governments; the functions and powers, including, without limitation, fiscal powers of governments; relationships among the State government and local governments; the allocation of State and local

resources; and any appropriate legislation to be recommended to the 264 Committee.

The ACIR met the first time on January 7, 2010. Subsequent meetings were held on April 7, May 6, May 24, July 22 and December 13 of that year. We were given presentations regarding the differences between Dillon's Rule and home rule, general law and charter cities, the processes of adopting and modifying charters used by various cities in Nevada, the existence and form of county charter governments in other states, and the use and makeup of intergovernmental advisory boards utilized by the federal government and other states. The Advisory Committee was also given a presentation regarding the selection process for town advisory board members. County assessors from several counties discussed the effects that 3 percent tax caps and 8 percent property tax caps had on their offices, and all expressed support for the continuation of the caps. The Advisory Committee discussed the interaction among State and local governments in providing services in transportation, health and social services, and economic development. Our Committee also reviews the State tax structure.

As part of its responsibility, ACIR submitted a report to the 264 Committee at its June 23, 2010, meeting. A copy of the report has been submitted to the Nevada Electronic Legislative Information System and handed out ([Exhibit D](#)). The report includes a recommendation that the 264 Committee submit three BDRs for consideration in the 2011 Legislative Session. The 264 Committee moved forward with two of the recommended BDRs.

I want to discuss BDR 19-169 which would allow ACIR to continue to build upon what we have accomplished in the short year of our existence. New committees, especially those having diverse parts like ACIR, need members to learn the roles and challenges of their members. Executive Branch members need to understand the challenges and limitations faced by local governments as a result of Nevada being a Dillon's Rule state. The differences between charter and general law cities need to be explained; the workings of Executive Branch agencies also need examination. This process dominated the agenda for the first few meetings of the Advisory Committee. Over the next few meetings, ACIR began to look at the provision of services by the different levels of government. In addition, the 264 Committee requested the Advisory Committee examine the process regarding the selection of town advisory board members. The ACIR members voted unanimously to recommend the ACIR be permanent to allow our

work to continue. More time is needed to examine the provision of governmental services with the goal of developing recommendations that lead to creating a more efficient government structure for the citizens of Nevada. We recognize that commissions can lose focus or fail their intent, and for this reason, we have included a sunset provision in our suggested BDR.

The sunset provides that if after four years, the Advisory Committee has either exceeded beyond expectation or not delivered a benefit to the State, the ACIR expires. If this Committee proves to benefit the State and its continued existence would continue to make government better and more efficient, the ACIR would be extended. We also recommend two additional Legislators from each House for membership.

WES HENDERSON (Deputy Director, Nevada Association of Counties):

The second BDR recommended by ACIR and submitted by the 264 Committee is BDR 20-170. It would extend functional home rule to the cities and counties in Nevada. In testimony during a hearing for S.C.R. No. 10 of the 74th Session, Senator Terry Care noted that about 11 percent of bills considered by the 2001, 2003 and 2005 Legislative Sessions related to local government. We are proposing that language be added to chapters 244, 266 and 268 of NRS to allow counties, general law and charter cities respectively to "perform all other such acts and things that are not prohibited or limited by statute." This provision would allow local governments the flexibility in their day-to-day operations to function more efficiently by allowing them to take actions that, not specifically authorized in statute, are not prohibited or limited. This in no way lessens the authority of the Legislature over local governments. The ACIR acknowledges that cities and counties are political subdivisions created by the Legislature and that the powers and authorities they possess are granted by the Legislature. The autonomy of local governments would not expand exponentially. Many statutes that govern functional responsibilities of local governments contain restrictive language. There may be efforts in the future to remove these restrictions on a statute-by-statute basis. Numerous statutes are in place that govern the operations of cities and counties relating to fiscal, personnel and structural matters. The ACIR is a worthwhile effort that benefits the citizens of Nevada.

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CHAIR LEE:

I agree with having members of the Senate and the Assembly on the Committee. Do we have enough representation from the Executive Branch? Do we have good representation?

MS. MARCH:

The State has been supportive and provided staff to answer our questions. We do not want the Advisory Committee size to exceed its effectiveness, so we rely upon the State's help to provide support and resources.

CHAIR LEE:

Our business is finished. This Committee meeting on Senate Government Affairs is adjourned at 8:56 am.

RESPECTFULLY SUBMITTED:

Cynthia Ross,
Committee Secretary

APPROVED BY:

Senator John J. Lee, Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Government Affairs

Date: February 16, 2011

Time of Meeting: 8:08 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
	C	Michael Stewart	Abstract and Summary of Recommendations for the Legislative Commission's Committee to Study Powers Delegated to Local Governments
	D	Debra March	Report on the Interim Technical Advisory Committee for Intergovernmental Relations (ACIR)