

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

**Seventy-Eighth Session  
May 13, 2015**

The Committee on Government Affairs was called to order by Chairman John Ellison at 8:45 a.m. on Wednesday, May 13, 2015, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 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: [www.leg.state.nv.us/App/NELIS/REL/78th2015](http://www.leg.state.nv.us/App/NELIS/REL/78th2015). In addition, copies of the audio or video of the meeting may be purchased, for personal use only, through the Legislative Counsel Bureau's Publications Office (email: [publications@lcb.state.nv.us](mailto:publications@lcb.state.nv.us); telephone: 775-684-6835).

**COMMITTEE MEMBERS PRESENT:**

Assemblyman John Ellison, Chairman  
Assemblyman John Moore, Vice Chairman  
Assemblyman Richard Carrillo  
Assemblywoman Victoria A. Dooling  
Assemblyman Edgar Flores  
Assemblywoman Amber Joiner  
Assemblyman Harvey J. Munford  
Assemblywoman Dina Neal  
Assemblywoman Shelly M. Shelton  
Assemblyman Stephen H. Silberkraus  
Assemblywoman Ellen B. Spiegel  
Assemblyman Lynn D. Stewart  
Assemblyman Jim Wheeler  
Assemblywoman Melissa Woodbury

**COMMITTEE MEMBERS ABSENT:**

None



**GUEST LEGISLATORS PRESENT:**

Senator David R. Parks, Senate District No. 7

**STAFF MEMBERS PRESENT:**

Kevin C. Powers, Chief Litigation Counsel  
Jered McDonald, Committee Policy Analyst  
Eileen O'Grady, Committee Counsel  
Lori McCleary, Committee Secretary  
Cheryl Williams, Committee Assistant

**OTHERS PRESENT:**

Chuck Callaway, Police Director, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department  
Kent Ervin, Private Citizen, Reno, Nevada  
John Fudenberg, Coroner, Government Affairs, Office of the  
Coroner/Medical Examiner, Clark County

**Chairman Ellison:**

[Roll was called. Committee rules and protocol were explained.] We will start with the work session and Senate Bill 29 (1st Reprint).

**Senate Bill 29 (1st Reprint): Grants power to a board of county commissioners to perform certain acts which are not prohibited or limited by statute. (BDR 20-465)**

**Jered McDonald, Committee Policy Analyst:**

Senate Bill 29 (1st Reprint) grants power to a board of county commissioners to perform certain acts which are not prohibited or limited by statute. The bill was sponsored on behalf of Nevada Association of Counties by the Senate Committee on Government Affairs and was heard in this Committee on April 24, 2015.

Senate Bill 29 (1st Reprint), in its first revision, provides that a board of county commissioners may exercise any power it has to the extent that the power is not expressly denied by the *Constitution of the State of Nevada*, the *Constitution of the United States*, the laws of Nevada, or granted to another entity for the effective operation of county government. The bill clarifies that if there is a constitutional or statutory provision requiring a specific manner for exercising a power, a board of county commissioners may adhere to that provision. Furthermore, if a board of county commissioners wants to exercise

a particular power that is not addressed in law, it must adopt an ordinance setting forth the manner for exercising that power. [Referred to work session document ([Exhibit C](#)).]

I will refrain from going through the entire summary. We did receive a mock-up amendment for this bill, which is attached to the summary sheet in the work session document ([Exhibit C](#)). I believe we have the bill sponsor and Mr. Powers from the Legal Division of the Legislative Counsel Bureau here to discuss the amendment.

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS  
SENATE BILL 29 (1ST REPRINT).

ASSEMBLYMAN STEWART SECONDED THE MOTION.

**Chairman Ellison:**

We have Mr. Powers here to present the amendment.

**Kevin C. Powers, Chief Litigation Counsel, Legal Division, Legislative Counsel Bureau:**

As you know, the Legislative Counsel Bureau Legal Division is a nonpartisan legal agency. We do not support or oppose any particular piece of legislation. However, we do provide legal advice and counsel to the Legislature and its committees with regard to the legal effect and consequences of legislation. I am before you today to talk about the mock-up of the proposed amendment to S.B. 29 (R1).

When this bill was heard before this Committee on April 24, 2015, the Committee members raised several concerns about the operation of the bill and how it would affect the balance of power between the state and local governments, in particular the board of county commissioners. The Legal Division facilitated meetings with a working group of interested parties, and they were able to come to an agreement in developing the mock-up that is before you today.

One overarching principle that you should be focusing on with regard to the mock-up is it overhauls S.B. 29 (R1) completely. Whereas the version presented on April 24, 2015, would abrogate Dillon's Rule, this mock-up does not abrogate Dillon's Rule. In addition, this mock-up only applies to a board of county commissioners, and it ensures that it does not affect existing powers of any other local governments, such as cities.

In going through the mock-up, I am going to provide a general overview of what the mock-up does, and I will certainly be available to answer any questions the Committee may have. Section 2 is a statement of Legislative intent describing what the bill is attempting to accomplish. In particular, it provides that as applied to county governments when dealing with matters of local concern, a strict application and interpretation of Dillon's Rule impedes the county commission from dealing with those matters of local concern as effectively, diligently, and decisively as the board of county commissioners needs to. To respond to that, this bill would provide that the existing powers that a county has that are expressly granted would still be the county's powers. However, in the area of matters of local concern, this bill would modify Dillon's Rule only with regard to matters of local concern that would allow the county to address those matters of local concern to effectively carry out county government.

The key to section 2 is subsections 6 and 7, which provide that statement of legislative intent with only delegating powers that are necessary or proper to address matters of local concern for the effective operation of county government. Section 2, subsection 7, makes clear that this bill applies only to a board of county commissioners and does not apply to any other local governing bodies, such as cities, and it only applies to those powers that are necessary or proper to address matters of local concern.

The key to this bill, of course, is what is a matter of local concern, which is contained in section 2.7. This is a specific definition to get at matters of local concern and based on research and case law from other states where local governments have home rule. Those states have defined standards to determine what is a matter of local concern versus what is a matter of state concern. Using that case law, this definition was developed in section 2.7.

A matter of local concern is a matter that primarily affects or impacts areas located in the county, or persons who reside, work, visit, or are otherwise present in the county, and does not have a significant effect or impact on areas located in other counties. The point is, matters of local concern are those matters that are specific to each county. In addition, matters of local concern cannot be within the exclusive jurisdiction of another governmental entity, whether it be the federal government, the state government, or another local government. If that matter were in the exclusive jurisdiction of another governmental entity, then it would not be a matter of local concern. Finally, a matter of local concern does not concern a state interest that requires statewide uniformity of regulations, the regulation of business activities that are subject to substantial regulation by a federal or state agency, or any other federal or state interest that is committed by the *Constitution*, statutes, or

regulations of the United States or this state to specific federal or state regulation that preempts local regulation.

The definition of matters of local concern in section 2.5, subsection 2, defines certain areas that are generally considered matters of local concern. That would be the public health, safety, and welfare in the county; planning, zoning, development, and redevelopment; nuisances and graffiti in the county; outdoor assemblies; contracts and purchasing by county government; the operation, management, and control of county prisons and the prisoners within those county prisons; and any public property, buildings, lands, utilities, or other public works that are owned, leased, operated, controlled, or managed by the county government. That would include county roads, highways, and bridges; county parks, recreational centers, cultural centers, libraries, and museums. To be clear, these areas are illustrative only. They are not an exclusive list. Of course, these areas would be subject to any overarching federal or state regulation.

During the hearing on April 24, 2015, the Committee expressed significant concerns with sections 3, 4, 5, and 6 of the bill. This mock-up would delete sections 3, 4, 5, and 6 from the bill.

That brings us to the main section of the bill, section 7. Section 7 of the mock-up specifically provides that unless prohibited, limited, or preempted by the *Constitution*, statutes or regulations of the United States or this state, a board of county commissioners has all powers expressly granted to the board, which is existing law; all powers necessarily or fairly implied in or incident to the powers expressly granted to the board, which is also existing law. Section 7, subsection 1(c), is the change in the law. The county would now have all powers necessary or proper to address matters of local concern through the effective operation of county government. If there is any fair or reasonable doubt concerning the existence of a board of county commissioners with regard to matters of local concern, that doubt is not necessarily resolved in favor of the county. Instead, there is a presumption. It must be presumed that the county has that power to address matters of local concern unless the presumption is rebutted by evidence of a contrary legislative intent. The doubt is not presumed in favor of the county; instead, there is a presumption that may be rebutted by contrary evidence that shows a different legislative intent.

Section 7, subsection 2, is language providing that if the *Constitution* or statute says a county has to carry out a power in a specific manner, obviously the county has to follow that constitutional or statutory provision. It also provides that if there is no specific procedure in the *Constitution* or statute for a county to exercise the power, then the county can adopt an ordinance to carry out that

power. Of course, anything the county does is still subject to any other constitutional or statutory limitations.

Finally, section 7, subsections 3 and 4, are existing from the original bill. Those are specific prohibitions on what the county cannot do without express statutory authority. The point is, this bill, although it modifies in part Dillon's Rule, it does not modify Dillon's Rule with any item listed in subsections 3 or 4. Those items include imposing taxes, elections, dealing with a liability between individuals, and imposing service charges or user fees. The final item states that without express statutory authority, the county cannot regulate business activities that are subject to substantial regulation by a federal or state agency.

That is an overview of the mock-up. I am available to answer any questions members of the Committee may have.

**Assemblyman Wheeler:**

This is more of a statement than a question. I would like to thank the Nevada Association of Counties for coming together and addressing the Committee's concerns, especially in section 3. I think this is now a good, truly functional home rule bill. I will definitely be voting in favor of it.

**Assemblyman Stewart:**

Mr. Powers, in your expert opinion, is this bill now limited enough and clear enough that there will be very few confrontations or questions between the state and the counties when the counties do exercise powers?

**Kevin Powers:**

Our office took pains to research all of the case law dealing with matters of local concern and drawing the line between what is within the state's jurisdiction and what would be a matter of local concern within the board of county commissioner's jurisdiction. Based on that case law, we believe we have crafted this bill in order to reduce as many of those questions as possible, and that it clearly delineates that line between matters of state concern and matters of local concern.

**Assemblyman Stewart:**

Thank you. That gives me a great deal of comfort.

**Assemblywoman Neal:**

My question is with section 2, subsection 5. It states, "As a general rule on local governmental power, Dillon's Rule serves an important function in defining the powers of county government...." I thought under Dillon's Rule the Legislature is recognized as having plenary power. The Legislature has the

power to define, not Dillon's Rule. The way this is written, Dillon's Rule is given the authority or equal authority to define the powers of the county.

The second sentence of the subsection states, "However, with regard to matters of local concern, a strict interpretation and application of Dillon's Rule unnecessarily restricts a board of county commissioners from taking appropriate actions...." I believe that sentence is awkward because I do not know what it is really saying. Is it saying a strict interpretation and application of Dillon's Rule that unnecessarily restricts the board of county commissioners is void or is not void?

**Kevin Powers:**

Section 2, subsection 5, is a statement of legislative intent explaining the background of why the Legislature is adjusting Dillon's Rule. Without a doubt, the Legislature has the power to determine the extent and scope of local governmental authority. However, in this state historically, the Legislature has followed Dillon's Rule, which is a common-law rule made by court decisions. The Legislature to this point and historically has deferred the common-law rule and has allowed courts to interpret board of county commissioners' powers using common-law rules: the Dillon's Rule. All this subsection is saying is that as a general rule, the Legislature agrees with Dillon's Rule and how it has been applied in the past. However, in the specific area of matters of local concern, the Legislature now believes that it is necessary to give the board of county commissioners a greater amount of authority in those areas, so we are going to modify Dillon's Rule. This is actually acknowledging that the Legislature has the power to modify Dillon's Rule and that they are, in fact, modifying Dillon's Rule in this area for a board of county commissioners dealing with matters of local concern. It is explaining that change in the law. It does not change Dillon's Rule for any other local government.

**Assemblywoman Neal:**

How should I read that awkward wording in the second sentence?

**Kevin Powers:**

With all due respect, I do not believe the sentence is awkward. Having said that, however, I certainly want the record to be clear. The second sentence is saying that we start with the premise that the Legislature has accepted Dillon's Rule and that it is a governing rule in the state. However, with regard to matters of local concern, the Legislature has now concluded that Dillon's Rule, if it is strictly applied to matters of local concern, unnecessarily restricts the board of county commissioners. We are opening those restrictions in matters of local concern and loosening that interpretation in this very narrow

area to allow the board of county commissioners to deal with matters of local concern and have greater power than they otherwise would under Dillon's Rule.

**Assemblywoman Spiegel:**

Could a county decide, because they now have the ability to have total control over things such as contracts and purchasing, that on a public works project they do not want to pay prevailing wage? Someone might say that prevailing wage is in statute, but the county may dispute that under this law. Any dispute would reside in the county's favor, so they would be able to do whatever they want. Could that happen? If that happens when the Legislature is not in session, would the Legislature have any recourse available? Would we have to call a special session in order to file an injunction to stop that from happening? Are there any other remedies available to the Legislature if the Legislature believes that the county commission is overstepping its bounds? This amendment is written broadly, and I do not see any kind of oversight or remedy the Legislature would have if there were, in fact, a dispute that the county commissioners are overstepping their bounds.

**Kevin Powers:**

I think we need to start with the language in section 7, subsection 1. First and foremost, this would not give any board of county commissioners total control over any matter. The introductory clause states, "Except as prohibited, limited or preempted by the *Constitution*, statutes or regulations of the United States or this State..." the board of county commissioners can exercise the following powers. The key is that with a matter such as prevailing wage that is specifically dealt with in statute, a board of county commissioners could not act contrary to that statute. Secondly, if the board of county commissioners attempted to act contrary to a statute, the remedy would be the remedy that any government or private person has, which is to go to court. A person who opposed what the board of county commissioners was doing would go to court to seek an injunction to stop the board of county commissioners. The person seeking to stop the board of county commissioners from exercising powers that are prohibited by statute would rely on the language of this provision that the board of county commissioners cannot exercise powers within those areas that are prohibited by statute, regulation, or *Constitution*.

In addition, in defining matters of local concern, section 2.7, subsection 1(c), clearly lists areas that the county cannot act, including the regulation of business activities that are subject to substantial regulation by a federal or state agency. Prevailing wage would fall into that category. Prevailing wage could also fall under the category of any other federal or state interest that preempts local regulation because, once again, if there is a statute that controls the subject, the board of county commissioners cannot go outside that statute.



I believe the remedies that would be available to anyone would be the traditional judicial action. Of course, if a board of county commissioners adopted an ordinance and the Legislature felt the need to go into a special session, they would certainly have that power. However, the normal machinery of the judicial process would prevent the county ordinance that violated these provisions of the bill from going into effect because people would seek the normal judicial remedies.

**Assemblywoman Spiegel:**

As far as the remedies, if the Legislature were not in session, would it be within the purview of the Legislative Commission to file an injunction, or would that be something that would, in fact, require a special session?

**Kevin Powers:**

As the Legislative Counsel Bureau's chief litigation counsel, the Legislative Commission has the power under *Nevada Revised Statutes* (NRS) Chapter 218F to direct this office to convene, commence, prosecute, or defend any litigation or matters of concern to the Legislature. Technically, yes, the Legislative Commission could have this office institute an action to try to stop the board of county commissioners from going beyond its authority under this legislation. That is an available option, but rest assured, if the board of county commissioners adopts an ordinance that adversely affects an entity, that entity will challenge that ordinance in court and they will seek judicial remedies. However, the Legislative Commission does have the option to bring lawsuits itself.

**Assemblyman Carrillo:**

My question is regarding section 2, subsection 7(a). I want to make it clear that the language does not eliminate any powers a local government currently has.

**Kevin Powers:**

That is true. The point of section 2, subsection 7, is to make clear the scope of this legislation. In other words, this legislation only applies to the board of county commissioners, and it does not affect any rules of law with regard to any other local government, whether it is a city, a school district, a general improvement district, or any other local governing body. The existing rules of law would still apply to those other local governing bodies. The other paragraph in subsection 7 makes it clear that this bill is only dealing with those powers that are necessary and proper to address matters of local concern, and it does not go beyond the scope of those powers.

**Assemblywoman Joiner:**

To lead into what you just said about the powers necessary and proper to address local concerns, in talking about Dillon's Rule or home rule, there are four types of home rule. I believe in the original hearing you said the original bill was functional only; not fiscal, not personnel, not structural. Could you please clarify for the record what type of home rule we are looking at here and whether those other three categories are affected or not? I would be concerned about whether we are broaching other areas that were not in the original hearing.

**Kevin Powers:**

Those terms, limited functional home rule, fiscal home rule, or personnel home rule, are convenient catch phrases or nomenclature used to capture concepts. The goal of this legislation was to achieve a modification of Dillon's Rule to provide more flexibility to the board of county commissioners to address matters of local concern. That is how I view the legislation. Whether someone wants to call that limited functional home rule, that may be a possibility, but I like to define it as a modification of Dillon's Rule to provide boards of county commissioners additional flexibility to address matters of local concern. To that extent, it is limited functional home rule, allowing a county to address matters of local concern that they otherwise would not have been able to address without that express statutory authority. It does allow a board of county commissioners to address fiscal or personnel issues that are matters of local concern. The key is the definition of matters of local concern. I do not think that I could comfortably conclude one way or another what category limited functional home rule falls under. It is simply a modification of Dillon's Rule to provide greater flexibility to the board of county commissioners to address matters of local concern, which is not a good catchphrase or slogan, but I believe that is what the legislation does.

**Assemblywoman Joiner:**

I understand what you mean about the categories, but it sounds like it could affect fiscal and personnel issues and could include all of those things as matters of local concern. I believe you mentioned that if there were conflict, they could seek judicial remedy. In my experience, judicial remedies, meaning long and expensive court processes, are never good for anyone. We end up wasting a lot of government money on such procedures, and they take a long time. I am not looking for that kind of conflict. You keep saying this bill does not affect other entities, and I see that. However, regarding the language about exclusive jurisdiction, how does it change the balance of power between counties and cities? Section 2.5, subsection 1(b), states, "Is not within the exclusive jurisdiction of another governmental entity...." Are you saying, for example in Washoe County, only the unincorporated areas of Washoe County

are affected by this bill? I do not think that is what you are saying. The way this is drafted, I do see in the areas where county and city overlap, there could potentially be conflict. Could the county make decisions about fire services or budgeting that would, in the overlapping areas, affect the whole county? By virtue of that, it changes the balance with the cities. Could you address that to alleviate some of my concerns about the balance between the localities?

**Kevin Powers:**

That is an important point about the legislation. Essentially, with regard to counties and cities, there are going to be three areas. The county is going to have exclusive jurisdiction over certain areas and matters; the cities are going to have exclusive jurisdiction over certain areas and matters; and there are going to be areas of concurrent and overlapping jurisdiction. Your concern is in those areas of concurrent and overlapping jurisdiction. In those matters where the cities have exclusive jurisdiction, obviously this bill will not affect that because they are going to remain within their exclusive jurisdiction of the city.

In those areas of overlapping jurisdiction, this will allow the board of county commissioners to address matters of local concern, but they cannot do it in a way that interferes with the exclusive jurisdiction of the city. However, there could be areas now that the county does not have express power to address. This bill would give them powers to deal with those matters of local concern in areas of concurrent jurisdiction. In fact, that is where both the city and the county can act.

**Assemblywoman Joiner:**

I appreciate your explanation. I am looking for five concrete examples of what this bill allows the counties to do that they cannot do today. We could talk all day about the language, but I want to know what it does. Do you or someone from a county have five examples? I want to know the point of this bill. If you are saying it is drafted in a way that is very limited, and it does appear to be more limiting than the last draft, then what does it allow the counties to do?

**Kevin Powers:**

I think the county representatives would be able to better address that issue because they can point to specific areas where they need additional power to address matters quickly, decisively, and effectively. I believe that was the testimony presented at the last hearing. The goal of the legislation is to provide that flexibility in those areas. Obviously, there are existing statutes that cover many different areas with regard to local governments, in particular counties. Whatever additional power this bill provides, they are still going to be subject to those existing statutes. It would be up to the counties to present you some examples where they do not already have that power, with the caveat,

of course, that it will not affect the exclusive jurisdiction of any other local government.

**Chairman Ellison:**

We have a motion on the floor to amend and do pass S.B. 29 (R1) and will now take the vote.

THE MOTION PASSED. (ASSEMBLYWOMAN JOINER VOTED NO.)

**Chairman Ellison:**

Will Committee members wishing to reserve their right to change their vote on the floor please raise your hand. [Assemblymen Carrillo, Flores, Munford, Neal, Silberkraus, and Spiegel raised their hands.] Assemblyman Wheeler will take the floor statement. We will move to Senate Bill 285 (1st Reprint). Senator Parks is available to answer any questions the Committee may have.

**Senate Bill 285 (1st Reprint):** **Revises provisions relating to local law enforcement agencies. (BDR 20-208)**

**Jered McDonald, Committee Policy Analyst:**

Senate Bill 285 (1st Reprint) revises provisions relating to local law enforcement agencies. The bill is sponsored by Senators Parks, Kihuen, and others, and was heard in this Committee on May 4, 2015.

Senate Bill 285 (1st Reprint) revises provisions relating to the powers and duties of constables and deputy constables. The bill allows the process, writs, or warrants of courts of justice, judicial officers, and coroners to be delivered directly to a constable who then must execute the orders. Certain fees to which constables are entitled for their services are increased, and a board of county commissioners is authorized to provide by ordinance for the fee to which a constable is entitled for providing a service authorized by law for which no fee is established by statute. A constable is authorized to accept payment of fees by credit card, debit card, or the electronic transfer of money and to charge and collect a convenience fee for the acceptance of such forms of payment under certain circumstances. A board of county commissioners is authorized to appoint a reasonable number of clerks for the constable of a township and to set their salaries.

The bill exempts from the licensure requirements in state law relevant to intoxicating liquors, a sheriff or constable who sells or offers for sale liquor at a sale under execution, and further allows a person licensed under the state law to purchase liquor at such a sale under execution.

We did have one amendment for the Committee's consideration, which is attached to the cover sheet for the bill in the work session document ([Exhibit D](#)). The amendment was proposed at the hearing by Senator Parks and Constable Ross.

ASSEMBLYMAN MOORE MOVED TO AMEND AND DO PASS  
SENATE BILL 285 (1ST REPRINT).

ASSEMBLYWOMAN SHELTON SECONDED THE MOTION.

**Chairman Ellison:**

Senator Parks, I have a question pertaining to a category I peace officer being changed to a category II peace officer in the bill. Could you explain the difference between the two categories?

**Senator David R. Parks, Senate District No. 7:**

It is my understanding that this was because of the limited scope of duties the constable would be performing. They do not necessarily require a category I designation.

**Chairman Ellison:**

What can a category II peace officer do that a category I peace officer cannot do? Can category II peace officers carry weapons? Could you explain the difference between the two categories?

**Senator Parks:**

It is my understanding that a category I peace officer may carry a weapon and has full arrest powers. A category II peace officer may also carry a weapon; however, they are somewhat more limited. I am sorry, I do not have the specific definitions for category I, II, and III peace officers. Perhaps there is someone here who may be able to assist.

**Chuck Callaway, Police Director, Office of Intergovernmental Services,  
Las Vegas Metropolitan Police Department:**

*Nevada Revised Statutes* (NRS) 289.460, 289.470, and 289.480 define the different categories of police officers. Basically, a category I officer has full police powers. For example, a Las Vegas Metropolitan Police Department officer in Clark County or Las Vegas, or a sheriff's deputy in Washoe County. A category II police officer has specific job functions, such as school police. They would not necessarily be serving search warrants at someone's home or doing something a category I police officer might do. The breakdown is lengthy, and I would not want to read through the entire statute, but

NRS 289.460 is where it begins, and it clearly defines what the categories are and what the job descriptions are.

**Assemblywoman Woodbury:**

I know part of a constable's job is to deliver subpoenas or eviction notices. Sometimes they can get into dangerous situations. Without having full police powers, is there any fear that they would not be able to handle those situations for their own safety and for those around them?

**Chuck Callaway:**

No. In fact, under NRS 289.470, constables are listed under subsection 2 as category II officers. Some category II officers may, through Peace Officers' Standards and Training (POST), receive category I training. However, in statute, they are still category II officers. There is nothing prohibiting them from receiving a higher level of training, but under statute they are designated as category II officers. If a constable were in a situation where his life were threatened or he had to make an arrest to save someone's life, nothing in statute would prevent him from doing that. In the statute, it outlines that the duties are limited to constable functions. Constables are not serving search warrants for a narcotics investigation or something that would go beyond what a constable's normal functions would be. They are not investigating homicides or sexual assaults. They are focused on constable duties.

**Assemblywoman Woodbury:**

Currently, are constables able to carry weapons on the job in order to protect themselves?

**Chuck Callaway:**

My understanding is that most constables do carry weapons in the performance of their jobs. I have heard that in some of the rural areas, there may be constables who do not carry firearms. The constables in the Las Vegas area do carry firearms in the course of their duties. As you know, the Las Vegas constables are now under the jurisdiction of the Las Vegas Metropolitan Police Department and are being handled through jail services.

**Assemblywoman Woodbury:**

In the original language, it said constables could be category I or category II. How many constables are category I and how many are category II officers? How is that decided?

**Chuck Callaway:**

Under current statute, NRS 289.470, constables are listed as category II peace officers. That does not mean they may not go to POST and receive

category I training. As an example, when I was in the U.S. Air Force, as part of a program, the Air Force sent certain personnel through Army Ranger training, but that did not mean they were Army rangers. They are still Air Force, but they received Army Ranger training. This is very similar. If someone is category II by statute, he may have received category I training. Under the statute, they are still category II officers.

**Assemblywoman Woodbury:**

To clarify, if a constable were in a situation where he needed to make an arrest, would he be able to do so as a category II officer?

**Chuck Callaway:**

Yes.

**Assemblywoman Woodbury:**

Chairman, I feel my questions have been answered, but I would like to reserve my right to change my vote on the floor. The constable's safety is still a huge concern for me.

**Assemblyman Silberkraus:**

I would also like to reserve my right to change my vote on the floor.

**Assemblyman Stewart:**

I would also like to reserve my right to change my vote on the floor.

**Assemblywoman Joiner:**

I would also like to reserve my right to change my vote on the floor.

**Assemblywoman Spiegel:**

I would also like to reserve my right to change my vote on the floor.

**Assemblyman Carrillo:**

I would also like to reserve my right to change my vote on the floor.

**Chairman Ellison:**

We will take the vote at this time.

THE MOTION PASSED UNANIMOUSLY.

**Chairman Ellison:**

Assemblywoman Dooling will take the floor statement. We will move to Senate Bill 477 (1st Reprint).

**Senate Bill 477 (1st Reprint): Revises provisions governing the installation of automatic fire sprinkler systems in certain single-family residences. (BDR 22-1110)**

**Jered McDonald, Committee Policy Analyst:**

Senate Bill 477 (1st Reprint) revises provisions governing the installation of automatic fire sprinkler systems in certain single-family residences. The bill was sponsored by the Senate Committee on Government Affairs and heard in this Committee on April 29, 2015.

Senate Bill 477 (1st Reprint) authorizes a governing body of any county or incorporated city to adopt a building code or take any other action that requires the installation of an automatic fire sprinkler system in a new residential dwelling unit that has an area of livable space of 5,000 square feet or more. [Continued to read from work session document ([Exhibit E](#)).]

Clark County Commissioner Tom Collins submitted one late conceptual amendment ([Exhibit F](#)), which is available on the Nevada Electronic Legislative Information System (NELIS). I will read the language proposed in the conceptual amendment. It states, "A governing body may not adopt a code or take any other action to require installation of an automatic sprinkler system in any portion of a structure on public or private land that is covered, but not completely enclosed if it is primarily used for agricultural, livestock or equestrian activities and has spectator seating situated around its perimeter, if the conditions regarding exits and fire alarm systems required by code are met."

**Chairman Ellison:**

I will entertain a motion.

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS  
SENATE BILL 477 (1ST REPRINT).

ASSEMBLYWOMAN SHELTON SECONDED THE MOTION.

**Chairman Ellison:**

Is there any discussion?

**Assemblywoman Neal:**

Does the motion include the amendment that is on the work session document ([Exhibit E](#)) and not the amendment that was presented by Mr. Collins ([Exhibit F](#))?



**Jered McDonald:**

Correct.

**Assemblyman Carrillo:**

With the new proposed amendment ([Exhibit F](#)), will groups that are grandfathered in not have to do an independent cost benefit analysis in the future?

**Chairman Ellison:**

We are not considering that amendment.

**Assemblyman Carrillo:**

I would like an answer to my question to find out if groups would be grandfathered in, such as Henderson. Would the independent cost benefit analysis be required for them?

**Eileen O'Grady, Legal Counsel:**

No, a cost benefit analysis would not be required because they are grandfathered in.

**Assemblyman Stewart:**

Mr. McDonald, this would not apply to cities that have already adopted prior ordinances, such as Henderson. Is that correct?

**Jered McDonald:**

That is my understanding, yes.

**Assemblyman Stewart:**

I am going to vote yes, but I would like to reserve my right to change my vote on the floor.

**Assemblyman Silberkraus:**

I have concerns about this bill. I will vote to move it out of Committee. I recognize that Henderson is carved out and will be going forward, which gives me some relief. However, I do have concerns about other cities in our state. I would like to reserve my right to change my vote on the floor.

**Chairman Ellison:**

There are many things that need to be taken into consideration that were not presented to the Committee. I believe this bill needs to be discussed in greater detail, perhaps in a conference committee. Sprinklers would be mandatory for mobile homes, which I believe needs to be taken into consideration. The cost

for flood insurance that would be implemented on the homebuyers also needs to be considered.

**Assemblywoman Joiner:**

I will be voting no on this bill today. I raised a lot of questions during the original hearing. I do not think a local government should have additional hurdles to create a policy like this that is to the benefit of the health and safety of their residents.

**Assemblyman Flores:**

I will also be voting no on this bill. I think the bill is well-intentioned and wants to help homeowners save money, but I think it is something that should be regulated at the local level. This body setting this precedent of trying to regulate building codes statewide is not the right thing for us to do. I believe we should leave it to the local government.

**Assemblywoman Spiegel:**

I will also be voting no on this bill. I think the bill is well intentioned, but I am concerned it will actually lead to the loss of additional life.

**Assemblyman Carrillo:**

Ditto.

**Chairman Ellison:**

We will take the vote at this time.

THE MOTION PASSED. (ASSEMBLYMEN CARRILLO, FLORES, JOINER, MUNFORD, NEAL, AND SPIEGEL VOTED NO.)

**Chairman Ellison:**

Assemblyman Moore will take the floor statement. We will close the work session and open the hearing on Senate Bill 164. Senator Parks will be presenting the bill.

**Senate Bill 164:** Revises provisions prohibiting certain discriminatory acts.  
(BDR 18-59)

**Senator David R. Parks, Senate District No. 7:**

Thank you for hearing Senate Bill 164 this morning. Despite its lengthy 34 pages of text, S.B. 164 is essentially a clean-up bill with technical corrections of previously overlooked statutes when bills were introduced and passed in previous Legislative sessions.

Senate Bill 164 revises language throughout the *Nevada Revised Statutes* (NRS) regarding the terms "sexual orientation" and "gender identity and expression," applying them in a uniform and consistent manner. As you are aware, this Legislature has passed a number of bills in recent sessions addressing both sexual orientation and gender identity and expression. In short, S.B. 164 brings all of our statutes in line and up to date with more culturally appropriate language that has entered into common usage.

This bill came about as a result of receiving calls and inquiries asking why previously approved legislation did not apply to specific statutes. At the time, all I could say in response was that the statute was intended to be changed but somehow it was overlooked in the process when bills were drafted.

That concludes my formal presentation. I am happy to answer any questions members of the Committee may have.

**Chairman Ellison:**

Are there any questions from Committee members? [There were none.]  
Is there anyone wishing to testify in favor of S.B. 164?

**Kent Ervin, Private Citizen, Reno, Nevada:**

Like most Nevadans, I am against prejudicial discrimination in any form. The NRS has pretty good public policy statements in its primary antidiscrimination statutes on employment, public accommodations, and housing. This bill simply clarifies legislative intent for other agencies and transactions where discrimination is prohibited. For example, section 28 of the bill regarding the Board of Regents will now match existing policy for the Nevada System of Higher Education. Sections 19 and 20 of the bill cover the classified service. I suspect employment decisions for classified staff are already covered by the general employment statute for antidiscrimination. However, if an employer or supervisor were reading those sections of NRS, they might wonder if certain groups were meant to be excluded.

Passing this bill gives the message to visitors to Nevada, and affirms the message that Nevada is open for business for everyone. Our tourism industry depends on that. Please pass S.B. 164.

**John Fudenberg, Coroner, Government Affairs, Office of the Coroner/Medical Examiner, Clark County:**

Clark County does support this bill.

**Chairman Ellison:**

Is there any further testimony in favor? [There was none.] Is there any testimony in opposition? [There was none.] Is there any neutral testimony? [There was none.] Senator Parks, do you have any closing statements? [He did not.] I will close the hearing on S.B. 164. Is there anyone here for public comment? [There was no one.]

This meeting is adjourned [at 9:39 a.m.].

RESPECTFULLY SUBMITTED:

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Lori McCleary  
Committee Secretary

APPROVED BY:

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Assemblyman John Ellison, Chairman

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

**EXHIBITS**

**Committee Name:** Assembly Committee on Government Affairs

**Date:** May 13, 2015

**Time of Meeting:** 8:45 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 29 (R1)	C	Jered McDonald, Committee Policy Analyst	Work session document
S.B. 285 (R1)	D	Jered McDonald, Committee Policy Analyst	Work session document
S.B. 477 (R1)	E	Jered McDonald, Committee Policy Analyst	Work session document
S.B. 477 (R1)	F	Tom Collins, Clark County	Amendment