

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

**Seventy-Eighth Session
May 15, 2015**

The Committee on Government Affairs was called to order by Chairman John Ellison at 9:39 a.m. on Friday, May 15, 2015, in Room 3137 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4406 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/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; 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 Patricia Farley, Senate District No. 8

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Eileen O'Grady, Committee Counsel
Lori McCleary, Committee Secretary
Jordan Neubauer, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Charles Odgers, City Attorney, City of Ely
Richard (Skip) Daly, Private Citizen, Sparks, Nevada
Rusty McAllister, President, Professional Fire Fighters of Nevada

Chairman Ellison:

[Roll was called. Committee rules and protocol were explained.] The first bill in the work session is Senate Bill 238 (1st Reprint).

Senate Bill 238 (1st Reprint): Disincorporates the City of Ely. (BDR S-709)

Jered McDonald, Committee Policy Analyst:

Senate Bill 238 (1st Reprint) disincorporates the City of Ely. The bill was sponsored by the Senate Committee on Government Affairs and heard in this Committee on May 1, 2015.

Senate Bill 238 (1st Reprint) places a question on the ballot to approve the disincorporation of the City of Ely for the general city election to be held on June 6, 2017. If the question is approved by the voters, the Board of County Commissioners of White Pine County becomes the governing body of the newly formed Town of Ely and all money, property, assets, liabilities, and indebtedness of the City of Ely transfer to the Town of Ely on July 1, 2018. [Referred to work session document ([Exhibit C](#)).]

We did have one amendment proposed by Senator Goicoechea, and the mock-up is attached to the summary sheet in the work session document. The amendment changes the bill to an advisory question to be placed on the ballot November 8, 2016, and will be countywide. The ballot question will read, "Should the governments of White Pine County and the City of Ely be combined?"

Assemblyman Moore:

I would like to propose another amendment to the mock-up amendment of this bill. I propose that the general election be held June 6, 2017, in the City of Ely only. In other words, hold only a city election, not a countywide election.

ASSEMBLYMAN MOORE MOVED TO AMEND AND DO PASS
SENATE BILL 238 (1ST REPRINT).

ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.

Assemblywoman Spiegel:

I actually support Assemblyman Moore's amendment. However, I would like to recommend changing the question so it is abundantly clear to the citizens of the City of Ely that if they vote yes, they are looking at having their city be dissolved. The question could be phrased as, "Should the City of Ely be dissolved and become one with the rest of the county?"

Chairman Ellison:

The bill does not say "dissolved." The advisory question asks if they should combine services.

Assemblywoman Spiegel:

I am recommending changing the question.

Chairman Ellison:

Is there anyone here from the City of Ely to address this issue? I was doing some research, and the City of Ely is in precincts 1, 2, 3, and 4. Is that correct?

Charles Odgers, City Attorney, City of Ely:

That is correct. We have four and a half precincts within the city. Half of one precinct is within the city and the county. The amendment would essentially limit it to approximately 2,132 registered voters within the city as it exists today.

If I may, I would like to speak briefly to the amendment proposed by Assemblyman Moore. Generally speaking, the citizens should always have a right to vote regarding what is going to happen within their government. To that extent, the Legislature has established *Nevada Revised Statutes* (NRS) 295.230, which allows the city or county government to put the advisory question on the ballot. The city or county government does not need this body to add the question to the ballot. My concern is this body is beginning to get into the regular governmental affairs of small communities. Ely is only

the first city. What will happen to Fallon, Winnemucca, Lovelock, North Las Vegas, or Boulder City? We are starting down a slippery slope, and once it is started, it will be difficult to stop the momentum.

If the citizens of the City of Ely, or if the citizens of White Pine County, wish to have this advisory question, then it should be left to their respective elected officials, either the city council or, God forbid, the Board of Commissioners, to do what they are trying to do. It is clear the county wants to take the assets of the city, so why should the Assembly and/or the Senate put their political clout at risk when the Board of Commissioners, that wants this, will not even do it for themselves.

We are opposed to S.B. 238 (R1) in any form. Barring killing this bill in the Assembly, Assemblyman Moore's amendment to make the election in the City of Ely precincts only is a better alternative than what we have today.

Assemblywoman Neal:

I do not have a question, but I am in agreement. When I read NRS 295.230, it does say, "The governing body of a county or city may, at any general election or general city election, ask the advice of the registered voters...."

My concern is, I do not believe we solve problems this way. Regardless of the amendment, which I believe makes the bill better and does not dilute the vote of the City of Ely if it were to go forward, I do not agree with trying to force cities and counties to have a conversation to consolidate services by bringing legislation to ask them if they want to dissolve themselves in order to gain that conversation. I am a flat out no on this bill because I do not think it is good policy.

[Assemblyman Moore assumed the Chair.]

Assemblyman Wheeler:

I believe the amendment does make the bill quite a bit better. We have had this discussion and, as you know, I am going to be voting yes on this matter because I believe we should bring the question to the citizens and let them make up their own minds. I understand there is a vehicle currently existing in NRS to address this, but there is also the vehicle to address it here.

Assemblyman Flores:

I agree the amendment does make the bill much better. However, I do not think it sets good precedent, and I do not think we should be putting our hands in this. It is not for this body to decide, so I will be voting no.

[Assemblyman Ellison reassumed the Chair.]

Assemblyman Moore:

I have a statement more than a question. This bill is extremely troubling, and I cannot believe it was even brought forward or made it this far and has not died a horrible death somewhere along the line. Given what it is, I believe this is the best we can do for it at this point. After having discussions with the representatives from Ely and others involved, it does appear to me there is an ulterior motive for this bill. I hope once the ulterior motive is exposed, the citizens of Ely will take the appropriate electoral action.

Assemblyman Stewart:

I want to make the record clear. With this amendment, if we vote yes, then only the citizens of the City of Ely will be voting on this question. Is that correct?

Chairman Ellison:

I believe if it is placed on the ballot, it could be separated by the precincts, but I am not sure. Mr. Odgers, could you clarify that?

Charles Odgers:

When we have an election, we break up into precincts, so only those precincts and those individuals within that precinct would receive the ballot that has this question on it. If they are in the county-only precincts, it would not be on the ballot. The short answer is it will be divided based upon which precincts are involved. The county has an electronic balloting system, so when the voter's card is placed in the machine, it will recognize the precinct. If the ballot question is appropriate for that voter, the question will appear. If the ballot question is not appropriate for that voter, the question will not be seen.

Assemblyman Stewart:

The vote taking place will only be for the precincts within the City of Ely. Is that correct?

Charles Odgers:

My understanding of Assemblyman Moore's proposal is that section 2 of the bill would be amended to read, "At the general election held in White Pine County on June 6, 2017, an advisory question must be placed on the general election ballot for the City of Ely precincts only in substantially the following form." We would keep the advisory question the same, as shown on lines 13 and 14 of the proposed amendment. If that were the case, it would be a city-only vote, and residents from the county would not be participating in that voting process.

Assemblyman Moore:

I believe the June 6, 2017, date would be the best date to go forward with. That way, it would ensure only the city could vote on the issue and would negate the county ever having a shot at this.

Assemblywoman Spiegel:

I actually have a procedural question. After listening to the discussion, I was wondering if it is possible to break this up into two separate votes: one vote being that if this bill were to move forward, it would move forward with Assemblyman Moore's amendment and have that be a separate vote from whether or not the bill moves forward? If the bill were to move forward, I would want the bill to move forward with Assemblyman Moore's amendment. However, without Assemblyman Moore's amendment, I would prefer the bill not move forward. Is there a way to be able to do that procedurally?

Chairman Ellison:

If the motion dies, we will have to have a separate motion.

We have a motion on the floor by Assemblyman Moore and a second from Assemblyman Silberkraus. Is there any further discussion?

Assemblywoman Neal:

I would like to clarify the question. When Assemblyman Moore made the motion, did Assemblywoman Spiegel add to the motion? We have not even talked about her question of changing the ballot question. Are we going to deal with that as a separate issue? If Assemblyman Moore's motion goes forward, will we also change how the question is worded in the bill?

Chairman Ellison:

If the motion dies, we can bring another motion forward. We will take a vote for the motion on the floor.

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

Chairman Ellison:

Assemblyman Moore will take the floor statement.

Assemblyman Stewart:

Did we just vote on the amendment or did we vote on the bill to amend and do pass? I thought the motion was to vote on Assemblyman Moore's amendment.

Chairman Ellison:

The motion was to amend and do pass.

We will move to Senate Bill 254 (2nd Reprint).

**Senate Bill 254 (2nd Reprint): Revises provisions relating to construction.
(BDR 28-791)**

Jered McDonald, Committee Policy Analyst:

Senate Bill 254 (2nd Reprint) revises provisions related to construction. The bill is sponsored by Senator Farley and others and was heard in this Committee on May 12, 2015.

Senate Bill 254 (2nd Reprint) requires a public body undertaking a public work to withhold 5 percent instead of at least 5 percent from any progress payment to a contractor until 50 percent of the work required by the contract has been completed. [Continued to read from work session document ([Exhibit D](#)).]

We did receive two amendments. The first amendment is from the bill sponsor and deletes sections 2.7 and makes various other changes. The other amendment was proposed by Susan Fisher of McDonald Carano Wilson, LLP on behalf of the National Association of Industrial and Office Properties, Southern Nevada Chapter. Their amendment proposes to amend the bill back to the first revised revision with additional amendments to remove suggested changes to *Nevada Revised Statutes* (NRS) Chapter 624, as shown on page 13 of [Exhibit D](#).

Chairman Ellison:

I will entertain a motion.

ASSEMBLYMAN WHEELER MOVED TO AMEND
SENATE BILL 254 (2ND REPRINT) BACK TO THE FIRST REPRINT
WITH NO OTHER CHANGES.

ASSEMBLYWOMAN DOOLING SECONDED THE MOTION.

Chairman Ellison:

The sponsor of the bill is available for questions. Is there any discussion?

Assemblywoman Neal:

I agree with going back to the first reprint. However, my issue is repealing the sunset. I do not mind this going for another four years to allow the industry

to get back on its feet. This would still be treating parts of construction differently. I am not okay with this going on forever.

Chairman Ellison:

I did meet with the bill sponsor, and I was shocked to find out what is in existing law. I would like the bill sponsor to discuss that. I believe the amendment Senator Farley brought forth is great. Do you have any comments, Senator Farley?

Senator Patricia Farley, Senate District No. 8:

Regarding the sunset provision, with the public works and the private works, every other surrounding state is like this. Most states that have retention laws do not have sunset dates. The reality is, in the last four years, since 2011, having the retention at 5 percent has really worked for public works and has worked for the construction industry. The construction industry is the third largest employer in Nevada. Moving the retention law to private works will probably have the same effect. We will not see the sky fall. We will probably see the industry grow. We absolutely need to do this for our partners, our suppliers, and our vendors, who support people, who employ people, and who help continue this economy to grow.

I have sent out some emails to demonstrate what the cash flow looks like when you retain 10 percent. One of our witnesses, Mr. Reeder, president of Reno-Tahoe Construction, gave a great analogy. He asked if someone held 10 percent of your paycheck, would it make it easier for you to live? It is the same when you do it to a company.

Chairman Ellison:

Have you met with all parties prior to this amendment coming forward, and do you have a consensus?

Senator Farley:

Yes.

Assemblyman Wheeler:

As far as removing the sunset, the way I understand this is the system in place is currently working very well, and the original intent of putting it in place was to remove the sunset if it worked well. Is that correct?

Senator Farley:

That is correct. The original bill sponsor of Assembly Bill No. 413 of the 76th Session, Mr. Daly, is here. It is working very well. Both in the Senate hearing and the Assembly hearing, no counties or state agencies came

forward in opposition indicating there were major problems, because there have not been.

Assemblywoman Neal:

I read the minutes from the hearing on Assembly Bill No. 413 of the 76th Session. Then-Assemblyman Daly specifically said this is not supposed to go on forever. It was said over and over again. When someone says the legislative intent is to do X and then he wants to change it to Y, I have a problem with that. That is my belief and my position. It is not going against what you, Senator Farley, believe, what you see, what you desire, or what you understand. The reason this was done in 2011 was because the industry was in trouble. The intent is quite clear in the minutes of that hearing in 2011. For me, it is not a debatable point. I would like to put on the record why I am going in the direction I am going on that policy point.

Senator Farley:

If the Legislature puts policy in place for a short period of time, but it happens to work successfully, should we not continue that policy? At this point, it is working successfully for our economy. I want to remind everyone, the construction industry is the third largest industry in the state of Nevada. The industry employs 88,000 people and purchases millions of dollars in products. We need to do what is right for our economy and continue Nevada's economic growth. Construction is a main player in that strategy.

Chairman Ellison:

Every session, laws are changed for what we hope is to the benefit of the state. We want to make laws that work.

Senator Farley:

To agree with Assemblywoman Neal, I believe adding a sunset provision is a way to test the law. If the law does not work, we pull the cord the other way. We have found this law worked and it helped our economy. The private sector is still trying to recover. We need to help them recover.

Assemblywoman Neal:

I am not against recovery; I am against forever. We do not know what is going to happen, and we do not know what is going to change. I am okay with another four years and having that flexibility until the industry gets on its feet. I want to be clear about that. I want my intent to be clear that I am okay with another four years, but I am not okay with it going on forever and removing the sunset.

Richard (Skip) Daly, Private Citizen, Sparks, Nevada:

I did not have a chance to read the minutes from Assembly Bill No. 413 of the 76th Session. However, as I recall, the reason for the sunset was because there was concern from the public bodies that we had always had a 10 percent retention and would 5 percent be enough in case there were issues. At that time, we agreed to see if there would be any problems over the next four years and placed a sunset date. My intention at that time was to remove the sunset if everything went well. If things had gone differently this past November, I would have brought forth a bill to do just that.

Assemblyman Wheeler:

I understand it was your intention to remove the sunset. However, in response to Assemblywoman Neal's question, we have a legislative session every two years. We could actually come back in two years or four years to change it again. We have that power, do we not?

Skip Daly:

Yes.

Chairman Ellison:

We have a motion to amend and do pass Senate Bill 254 (2nd Reprint). We will take the vote.

THE MOTION PASSED. (ASSEMBLYMEN NEAL AND
SILBERKRAUS VOTED NO.)

Assemblyman Stewart:

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

Assemblywoman Neal:

I voted no, but I would like to reserve my right to change my vote on the floor.

Assemblyman Silberkraus:

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

Chairman Ellison:

Assemblyman Wheeler will take the floor statement. We will move to Senate Bill 340 (1st Reprint).

**Senate Bill 340 (1st Reprint): Revises provisions governing public works.
(BDR 28-255)**

Jered McDonald, Committee Policy Analyst:

Senate Bill 340 (1st Reprint) revises provisions governing public works. The bill was sponsored by Senators Smith, Ford, Spearman, and Parks, and Assemblyman Carrillo, and others. The bill was heard in this Committee on May 12, 2015.

Senate Bill 340 (1st Reprint) provides that if a contractor is excluded for a period of time from receiving contracts from the federal government as a result of being debarred, the contractor may not be awarded a contract for a public work in this state for the longer of: (1) four years from the date on which the Labor Commissioner becomes aware of the exclusion; or (2) the length of the term of debarment. [Referred to work session document ([Exhibit E](#)).]

There was one amendment proposed to change the effective date of the bill to October 1, 2015.

Chairman Ellison:

I will entertain a motion.

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS
SENATE BILL 340 (1ST REPRINT).

ASSEMBLYMAN CARRILLO SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYWOMAN NEAL VOTED NO.)

Chairman Ellison:

For those who would like to reserve their right to change their vote on the floor, please raise your hand. [Assemblymen Dooling, Munford, Neal, Shelton, Silberkraus, Stewart, Wheeler, and Woodbury raised their hands.] Assemblyman Carrillo will do the floor statement.

We will move to Senate Bill 406 (1st Reprint).

Senate Bill 406 (1st Reprint): Revises provisions relating to public retirement systems. (BDR 23-1049)

Jered McDonald, Committee Policy Analyst:

Senate Bill 406 (1st Reprint) revises provisions relating to public retirement systems. The bill was sponsored by Senator Roberson and heard in this Committee on May 11, 2015.

Senate Bill 406 (1st Reprint) makes various changes to the Public Employees' Retirement System (PERS), the Judicial Retirement Plan, and the Legislators' Retirement System for persons who become members on or after July 1, 2015, unless otherwise noted. [Continued to read from work session document ([Exhibit F](#)).]

We did receive two amendments. One of those amendments has been clarified since the work session document was posted to the Nevada Electronic Legislative Information System (NELIS). The amendment was proposed by Assemblyman Hambrick and the bill sponsor. The amendment proposes to backdate the effective date to June 1, 2013, for the sections pertaining to survivor beneficiaries.

Section 4, subsection 1, and section 4.5, subsection 1, refer to the retirement system for all regular members and police officers and firefighters of PERS. Section 16, subsection 1, and section 16.5, subsection 1, refer to the Judicial Retirement Plan. Section 27, subsection 1, and section 27.5, subsection 1, refer to the Legislators' Retirement System.

The other amendment received was proposed by Lee-Ann Easton, Administrator, Division of Human Resource Management, Department of Administration. There is a conceptual amendment attached to the summary page of the work session document ([Exhibit F](#)). This amendment was actually discussed during the hearing on the bill.

The amendment clarifies that service credit purchased pursuant only to subsections 1 and 2 of *Nevada Revised Statutes* (NRS) 286.3007 cannot be used in the calculation of postretirement benefits. The remaining subsections of NRS 286.3007 pertain to service credit buyouts for the purpose of workforce reductions, which can therefore be used in the calculation of postretirement benefits.

Chairman Ellison:

For clarification, the effective date of June 1, 2013, is for the members who were killed in the line of duty in order to protect their spouses. Is that correct?

Jered McDonald:

I believe that is correct.

Assemblywoman Woodbury:

Other than the provision the Chairman mentioned, which of these provisions apply to members already in the system and which applies to future members? For example, the age of eligibility to receive retirement benefits and the ability to use service credit purchased in the calculation of the member's years of service, do those apply to members already in the system?

Jered McDonald:

My understanding is that all of the provisions are for future retirees with an effective date of membership on or after July 1, 2015, except for the survivor beneficiary portion, which would be available to current members and future members.

Assemblywoman Neal:

The proposed amendment for section 4, subsection 1, makes that section of the bill effective June 1, 2013. Are we going back two years to capture those people?

Assemblyman Wheeler:

I believe the purpose of the amendment is to capture the two officers who were murdered in Las Vegas. This amendment would take care of those two officers' families.

Rusty McAllister, President, Professional Fire Fighters of Nevada:

The proposed amendment to move the effective date is because payouts in the system were identified in the interim as being inadequate for people who have passed away since the last session. The amendment is intended to go back to the end of the last session and move forward from that point to now. That will not only include the two police officers in Las Vegas, but also the schoolteacher who was murdered in Sparks, and another police officer in Las Vegas who died in a tragic accident on a search and rescue mission on Mount Charleston when he fell out of a helicopter. Those are the instances that have taken place to our knowledge since last session. We could not fix it during the interim, and the opportunity to fix it is now. One other individual also included is the Department of Transportation employee who was killed in Battle Mountain in March 2015, after being run over by an 18-wheeler. The intent is to capture those people we have identified since the end of last session.

Assemblywoman Neal:

Did Assemblywoman Diaz sponsor a bill similar to this?

Rusty McAllister:

Yes.

Assemblywoman Neal:

Was that provision changed in her bill?

Rusty McAllister:

I do not believe it has been changed at this point.

Eileen O'Grady, Legal Counsel:

I would like to get clarification about whether going back two years also applies to the survivor beneficiary sections as well as the surviving spouse.

Rusty McAllister:

That is true. The intent is a spouse or a surviving beneficiary.

Chairman Ellison:

Is there any further discussion? [There was none.] I will entertain a motion.

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS
SENATE BILL 406 (1ST REPRINT).

ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Assemblywoman Neal:

I would like to reserve my right to change my vote on the floor. I understand the intent, but I need to think about it and look at it as a whole. I would also like to review Assemblywoman Diaz's bill.

Assemblyman Flores:

I am going to ditto that statement.

Assemblywoman Joiner:

Ditto.

Assemblywoman Spiegel:

Ditto.

Assemblyman Carrillo:

I will be reserving my right to change my vote on the floor as well.

Assemblyman Munford:

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

Chairman Ellison:

Assemblyman Silberkraus will take the floor statement. I am not going to adjourn the meeting at this time. We will be going into recess in case other bills need to be addressed. Is there anyone here for public comment? [There was no one.]

[The meeting was recessed at 10:23 a.m. and adjourned at 1:17 p.m.].

RESPECTFULLY SUBMITTED:

Lori McCleary
Committee Secretary

APPROVED BY:

Assemblyman John Ellison, Chairman

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Government Affairs

Date: May 15, 2015

Time of Meeting: 9:39 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 238 (R1)	C	Jered McDonald, Committee Policy Analyst	Work session document
S.B. 254 (R2)	D	Jered McDonald, Committee Policy Analyst	Work session document
S.B. 340 (R1)	E	Jered McDonald, Committee Policy Analyst	Work session document
S.B. 406 (R1)	F	Jered McDonald, Committee Policy Analyst	Work session document