

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

**Seventy-Eighth Session
June 1, 2015**

The Committee on Government Affairs was called to order by Chairman John Ellison at 10:49 a.m. on Monday, June 1, 2015, in Room 3143 of the Legislative Building, 401 South Carson Street, Carson City, 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 also available on the Nevada Legislature's website: 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 Richard Carrillo
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:

Assemblyman John Moore, Vice Chairman (excused)
Assemblywoman Victoria A. Dooling (excused)

GUEST LEGISLATORS PRESENT:

Senator Greg Brower, Senate District No. 15



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Kevin Powers, Committee Counsel
Jordan Neubauer, Committee Secretary
Cheryl Williams, Committee Assistant

OTHERS PRESENT:

Mark A. Hutchison, Lieutenant Governor
Greg Smith, Administrator, Purchasing Division, Department of Administration
Wes Henderson, Executive Director, Nevada League of Cities and Municipalities
Brian McAnallen, Government Affairs Manager, City of Las Vegas
Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce
Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada
Scott F. Gilles, Legislative Relations Program Manager, Office of the City Manager, City of Reno
Adam Mayberry, Community Relations Manager, City of Sparks
George A. Ross, representing City of North Las Vegas
Tom Grady, representing City of Fallon
Paul J. Enos, Chief Executive Officer, Nevada Trucking Association

Chairman Ellison:

[Roll was called. Committee rules and protocol were explained.] I will open the hearing on Senate Bill 325 (1st Reprint).

Senate Bill 325 (1st Reprint): Revises provisions relating to state purchasing. (BDR 27-1024)

Senator Greg Brower, Senate District No. 15:

Senate Bill 325 (1st Reprint) is essentially aimed at addressing a problem that many of us are aware of. We have recently seen some state contracts for services like advertising, marketing, et cetera, be awarded to out-of-state firms despite the fact that very qualified Nevada firms also competed for the contracts and barely lost. The most recent example that comes to mind is a \$20 million contract that was awarded to an Ohio advertising firm to do advertising for the Commission on Tourism, Department of Tourism and Cultural Affairs, here in Nevada. If that does not make sense to many of you, I agree.

This bill provides that when the state goes out to bid for a contract—not goods but services only—there be an additional factor considered, and that factor is outlined in section 1, subsection 3, paragraph (d), which reads: "The connection between the person submitting the proposal and this State." When it comes to evaluating responders to a request for proposal (RFP), the idea is that we want to give in-state bidders a slight bump in terms of the consideration based upon their connections with the state. In section 1, subsection 4, paragraphs (a) through (d) are the various criteria with respect to what we mean when we say, "The connection between the person submitting the proposal and this State." The various criteria include the amount of taxes paid, the number of buildings in the state owned or leased by the bidder, the number of persons employed in the state, and the amount of goods or commodities for use that are produced or manufactured in the state.

That is the bill in a nutshell. I will submit that it is about as close to a perfect bill as we see around here in terms of the intent. The intent is to give a preference to Nevada companies when competing for contracts awarded by the state.

To reiterate, current law, in *Nevada Revised Statutes* (NRS) 333.335, provides that when any state entity is considering responses to an RFP, the criteria that are considered are "(a) The experience and financial stability of the person submitting the proposal; (b) Whether the proposal complies with the requirements of the request for proposals as prescribed in NRS 333.311; (c) The price of the proposal; and (d) Any other factor disclosed in the request for proposals." We are simply proposing to add one more factor, which is the connection between the proposing entity and the state. I just want to make sure in cases where a state entity is neck and neck with an out-of-state entity in terms of competing for the contract, we are giving due consideration to the company's connections with the state in getting the contract.

Chairman Ellison:

Are there any questions from the Committee?

Assemblyman Flores:

I do not think there is a member in this body who is not enthusiastic when we have a conversation about giving preference to the people of the state of Nevada. That is what we are here to do and those are the people we are here to serve. Are we mimicking something that is already happening in neighboring states? I know anytime we talk about giving preference to anything, anybody, or any entity, there is always the question if we are opening ourselves up for

any type of legal disputes in the future. Obviously, you vetted this through the Legal Division, Legislative Counsel Bureau, and they are comfortable. I am assuming they do not see that it would be an issue; otherwise they would have told you. Can you give me some insight on that?

Senator Brower:

That is an excellent question, and it did merit some discussion in the Senate and was fully vetted. The short answer is no; staff does not see any legal problems. Let us take the Ohio example that I mentioned earlier where the State of Nevada awarded a \$20 million multiyear contract to an Ohio firm to do advertising for Nevada. I think there is something wrong with that. I think it would also be wrong if Ohio awarded a similar contract to a Nevada firm. We would all be happy for the Nevada firm that got the \$20 million contract, but we would question the wisdom of Ohio coming all the way to Nevada to hire an advertising firm to do advertising for Ohio tourism. There is certainly not a legal issue, and I think it is fair to say a concern on our part is that this might result in some kind of tit for tat retaliation by neighboring states. I think states ought to be looking first to the companies within their own state. I think we would all agree that whatever the type of contract, if there is not a Nevada firm that in the eyes of the awarding entity is qualified to do the work, then it should not go to a Nevada firm. If there is, it should.

Chairman Ellison:

I think Mr. Powers can also address the issue.

Kevin Powers, Committee Counsel:

The issue is under the Commerce Clause of the *United States Constitution*. Generally the Commerce Clause prohibits states from giving preferential treatment to in-state businesses in comparison to out-of-state businesses, but that is generally when the state is a market regulator and not a market participant. When the state is a market participant and is purchasing its own goods and services, the state can give more preference to in-state businesses versus out-of-state businesses.

Mark A. Hutchison, Lieutenant Governor:

We spent a lot of effort and energy with Tesla Motors not long ago. We said if there are companies that will be paying taxes, hiring Nevadans, renting space, or owning buildings in the state of Nevada, we like that and we want to promote it. To me this is just an extension of that policy. Are there other states that have these kinds of preferences? Yes, there are. Is there a chance that we may get into some kind of a bidding war? I am not aware of any example of that, but perhaps there would be some states that would be involved.

There is nothing wrong with the State of Nevada saying that as a matter of policy we want to favor those who are doing business in Nevada, are paying taxes, educating our children, sending their children to our schools and paying for them, building buildings, occupying buildings, and that is what this bill attempts to do. When there is a big contract that goes to an out-of-state company and it is close—they are otherwise qualified but it is close—I do not think there is anything wrong with a policy where the State of Nevada says that we are going to give some preference to Nevada residents.

Assemblyman Wheeler:

Everyone wants to give preference to Nevada companies, but with the example that the Senator used regarding the Ohio company, do you have any idea how much more it would have cost the state in taxpayer dollars to use a Nevada company in that particular instance? Has there been any type of study that you have done in relationship to this bill to know what the actual difference in cost would be in giving preference to a Nevada company? Obviously, as you mentioned, Lieutenant Governor, we gave a \$1.3 billion tax break to Tesla to come to Nevada, and now we are raising \$1.5 billion in taxes to our existing companies. What is the cost going to be to our existing companies if we initiate programs like this?

Mark Hutchison:

We have not done a study specifically in the Ohio firm instance. We do know that the bidding was very close and in most instances, I think it will be a very close call. We think this will be a sort of tiebreaker. Under the criteria set forth in the statute, the purchasing agency can lay out in their RFP exactly what they are looking for. The preference is just one of those factors. It has to be at least as important as the other factors, but typically, and what we anticipate, is that there will be very close bidding, and this would push it over to favor the Nevada residents. I do not have any specific report or research for you, but the intent is that this will be applied in very close situations, and there will be a very small differentiation.

Assemblywoman Shelton:

Why did you include in the bill wanting to know what the company's taxes are, how many offices they have, and how many employees they have? It seems like it might be putting an undue burden on the Purchasing Division, Department of Administration, to have to get that type of information.

Mark Hutchison:

We put those criteria in there as a way to find out who has connections to Nevada. In the Senate we heard from the Purchasing Division, and they said that it is a difficult thing for them to do. Finding out how much a company

pays in taxes, the number of buildings they occupy or have, and the number of employees is going to cause some challenges for the Purchasing Division. They do not know how to do it, and it might cause a big audit. I respect those who are involved in the Purchasing Division's decisions. I do not understand their points of view. The reason I do not understand is because under existing law, they already have to apply very subjective criteria. For example, if you look at section 1, subsection 3, it says, "In making an award, the chief of the using agency, the Administrator of the Purchasing Division or each member of the committee, if a committee is established, shall consider and assign a score for each of the following factors for determining whether the proposal is in the best interests of the State of Nevada: (a) The experience and financial stability of the person submitting the proposal." If there ever is a requirement for an audit or to vet it, how are you going to determine what someone's experience level and financial stability are to compare to other bidders? Next is "(b) Whether the proposal complies with the requirements of the request for proposals as prescribed in NRS 333.311." Those RFPs could have very subjective elements that they have to evaluate. Then "(c) The price of the proposal," which is fixed and easy to evaluate, but the first two criteria are pretty darn subjective.

Let us look at the things we have included. There is the amount of taxes paid, which is a fixed number. The company is going to give you a number, and the Purchasing Division can look at that just as they can look at whatever the price is for the proposal. You can look at the number of buildings they are occupying and where their principal place of business is. You can look at the number of employees and the independent contractors. My point is, these are all numbers. There is nothing in this bill or currently in existing law that requires a big audit or a big evaluation.

There are criminal penalties in existing law for submitting false information to the State of Nevada in the bidding process. That is the way you would go after an entity if they submitted something to the Purchasing Division that is false. They would not have to have an auditing division or department, just as they do not need a new department or division to evaluate the experience and financial stability that is currently required under existing law. I do not think that this is a burden. I do not think it is something we need to worry about beyond what is already in existing law.

Senator Brower:

There was discussion in the Senate about this. We happen to think that our new criteria are much more objective than the existing three criteria in statute. I think it will actually help with the issue that you are concerned about, all things considered.

Assemblywoman Neal:

My question is on the market-participant doctrine. I was researching it and trying to flesh it out. I thought that some of the criteria might have been discriminatory because when I looked at the intent of NRS 333.135 and NRS 333.311, I thought about when we created the legislation in 2003 and if the intent for the Purchasing Division was to act as a regulator. Everything that I saw when I was reading the NRS and the terms of the general powers of the Purchasing Division suggests the purpose is regulatory. When did they cross over to fall under the market-participant doctrine to be acting as a business or a consumer in terms of trying to dictate how the market of the bidding should be? If the general powers under the statute say that they are a regulatory authority, then to me the exception did not apply. I do not know if you examined that, but it went back to Senator Valerie Wiener in 2003. In the minutes she said it is for the purpose of business. Maybe that is a carve-out and this is what they thought. In the minutes, she said the intent was about a better business model for the state, but then the general powers said regulatory.

We have had a few other bills come through that have given preference. When we talk about economic protectionism and how the state can discriminate rightly so and we can be protective for our economic interest, but when you look at the aggregate, the totality of all of the legislation that we have passed, does that in and of itself make it discriminatory? When you put all of the pieces together, are we falling out of our protectionism and moving towards a discriminatory act against out-of-state people, when you look at some of the criteria you have with the connection to the state and whether or not you have purchased or done different things in your subcategories?

Senator Brower:

We have thought a lot about those very issues. We have carefully vetted that, and I think we are right on this one. I will defer to Mr. Powers to give us some of the finer points.

Kevin Powers:

To address the first part of Assemblywoman Neal's question, a state acts as a market regulator under the Commerce Clause of the *U.S. Constitution* when the state is regulating the conduct of private parties. For example, if the state was trying to regulate how two private parties were to contract and it was trying to create an in-state preference between two private parties, that is when the state is acting as a market regulator, but when the state is itself the purchaser, when it is the one purchasing the good or service and it is regulating how it conducts its own business, it is a market participant. It is determining how the state will participate in the market for those goods and services.

Nevada Revised Statutes Chapter 333 and this bill deal with the state as a market participant buying goods or services in the free market and how the state regulates its own purchasing activities, not the purchasing activities between two private parties.

The second part of your question is more of a policy question that the Senator and Lieutenant Governor can address as to whether or not we are heading in a discriminatory direction. In the end, once the state is allowed to act as a market participant, then it can determine how it wants to give preference to in-state businesses. The level of discrimination in favor of an in-state business is a policy decision for the Legislature to make. I believe that is the essence of this bill, to present the Legislature with a policy and if the Legislature were to adopt it, then the Purchasing Division would be governed by this policy, but it would be constitutional under the Commerce Clause of the *U.S. Constitution*.

Senator Brower:

I think we would agree. This scheme, like many schemes, is discriminatory in a sense. I know that word has a pejorative connotation, but it is discriminatory in that it discriminates in favor of qualified bidders who come in at a competitive price and are connected to Nevada. We would submit that would be a permissible, logical discrimination vis-à-vis outside firms. We would be the first to concede that the intent of this bill is not to give an advantage to Nevada firms who are not competitive, not qualified, and not coming in at a price that makes sense for the state.

Assemblywoman Joiner:

I think this is a good idea to provide business for our local businesses. I have a technical question. We already have bidding preferences in statute for veterans and veteran-owned businesses. I was reading through the bill and trying to figure out where that fits in. I am curious about section 1, subsection 5, where it talks about the weighting factor in paragraph (d) of subsection 3. Where does the bidding preference for the veterans fit into this bill? Is it later in the NRS and those sections are not being revised? Will one supersede the other or weigh more? As far as I know, we do not have any other preferences in statute. In general, how will it fit in procedurally?

Mark Hutchison:

I do not know that I have the specific answer in terms of how the veteran preference would fit into this bill. I would have to go back and see the veteran preference. The purpose of the language that we just talked about, and you already identified, is to say that we do not want to have the Purchasing Division or those who are making decisions about purchases place at the bottom or discount this idea of giving a preference to those who are hiring our residents

and paying taxes within the state. It has to be at least equal to or greater than the other factors that are listed in section 1. I will defer to Mr. Powers in terms of where the veteran preference would come into play.

Kevin Powers:

Nevada Revised Statutes Chapter 333 is a multistep process. First, there has to be a determination of who is the lowest responsible bidder and obviously, the first initial determination is the RFP and how much the bidder is saying the contract will cost. The veterans preference is in NRS 333.3366 and it provides that when a veteran operates the local business, the bid or proposal shall be deemed 5 percent lower than the bid or proposal actually submitted. The preference is that it becomes more likely that the veteran will be considered the lowest bidder. After the lowest bidder determination is made, then you have to determine whether that is the lowest qualified bidder, and that is where these preferences come in. After you find out who the lowest bidder is, then you apply these additional elements that are in the bill to determine who is the best and most responsible bidder because the lowest bidder does not always win. That is just the starting point, and then you apply these preferences and determine who is the lowest and most qualified bidder.

Assemblywoman Joiner:

I believe the veterans preference is also for locally owned businesses, so they would be a Nevada company. Thank you, I understand now that the 5 percent relates to whether or not they are the lowest bidder; then these other criteria would kick in, but would they then be, as a Nevada business, additionally benefitted by this? It seems like they could be.

Kevin Powers:

Yes. They would have the ability to also enjoy these factors in determining not only if they are the lowest but also if they are the most qualified. The statutes define local business in NRS 333.3363 as a business that employs at least one person in this state, and has employed at least one person in this state for not fewer than two years. The local business with the veteran component gets the preference initially to determine who the lowest bidder is and then the qualifications are determined after that. The local business with the veteran would also benefit from this legislation as well.

Chairman Ellison:

Those who are in support of the bill please come forward. [There was no one.] If anyone is in opposition, please come forward. [There was no one.] Is anyone neutral?

Greg Smith, Administrator, Purchasing Division, Department of Administration:

I am here mainly as a resource to answer any questions. I would like to hit on a couple points before I answer questions. There is a \$25,000 threshold. We do an RFP process and the state agencies must do it the formal way, as it is spelled out in NRS Chapter 333, on any expected contract over \$25,000. The Purchasing Division handles any contracts with the expected amount over \$100,000.

With regard to the Ohio situation, I am not positive on this, but that one was done a little bit differently. That is one of the rare instances where the state actually publicizes the budget we have to work with. We are not looking to do a low bid type of situation. We actually say this is the amount of money we have to work with. We basically ask them how they propose to give us the biggest bang for our buck. That way the advertising agencies know what they have to work with for television, radio, print, et cetera.

There are a couple things I would like you to know as you go about deliberating your decision. We are in no way opposed to this legislation. We would just like to offer a couple of "devil in the details" types of implementation issues. You should be aware that a recent query of all state active contracts indicates that approximately 70 percent of them go to companies with a Nevada address. Well over 30 states in the country have inverse preference legislation currently on the books. This would affect some of the big advertising companies in Las Vegas. If we give a preference in any way, shape, or form—traditionally it has been a 5 percent preference on a certain category—another state will penalize that vendor if they attempt to do business in that state at the state government level by the same amount. If it is a business that simply does business in Nevada, it is not going to apply to them; if you are a large business that does business outside of Nevada, it may be a concern.

Recently I served as the President of the National Association of State Procurement Officials. The public procurement profession is opposed to preference legislation of any type, but I live in the real world, and I want to assure you that should you pass this bill, we are "committed to the commitment." I will tell you that I really appreciate the commitment language that is in this as opposed to just being a Nevada vendor with a Nevada address. This came about several years ago with Ponderosa Meat Company. On the state's prisons contract, they proposed \$8 million to \$10 million worth of food. US Foods, Inc. also submitted a proposal and won the contract. Ponderosa Meat Company complained mildly that they were a good, solid,

local Nevada business still operating in Reno, but US Foods, Inc. has huge, 100,000- to 200,000-square-foot operations at either end of the state and employs people here to attempt to legitimize them as a committed Nevada vendor.

Lastly, the veterans services do not apply here. The veteran preference is only on goods up to a certain threshold. This is procurement of professional services, so they do not intertwine at all.

Chairman Ellison:

I saw that this bill went to the Senate Committee on Finance. There is a large fiscal note on this bill.

Senator Brower:

I have not seen a fiscal note on this bill. It did go through Senate Finance, but I am not sure they spent much time with it.

Chairman Ellison:

The Department of Administration's fiscal note ([Exhibit C](#)) is \$509,964 in future biennia. The Department of Corrections' fiscal note ([Exhibit D](#)) is \$135,142.

Greg Smith:

The revised fiscal note is considerably less than that. It was revised after the amendment took goods out of the bill, thereby reducing it immensely. We still have a fiscal note ([Exhibit C](#)) for two management analyst positions to vet this information. We believe that the general business of public contracting is contentious and litigious. All of our other evaluation factors speak to vetting which is the best business for the state to do business with. If you are going to ask us to assess property taxes, sales taxes, use taxes, government service taxes, excise taxes, number of buildings owned or leased, et cetera, we have to vet those kinds of things. Keep in mind we are only a coordinating/facilitating agency. It is an evaluation committee generally made up of three to seven employees of the state who put the scores to the RFPs. We do not believe it is acceptable to just take a vendor's word for it. There have been too many cases where six months or a year down the line a competing vendor comes back and says that the people on the committee lied. We may be able to find out that they lied, but if it is a very expensive information technology implementation, what do we do at that point?

Senator Brower:

I have not seen the fiscal notes. We thought they went away with the amendment to the bill in the Senate. I want to reiterate our position and that of many of the businesses in Nevada that have discussed this with us. The fourth

criterion that we seek to add by way of this bill is actually the most objective and easiest to verify of all of the criteria that would be in the law if this bill passed. The Lieutenant Governor and I respectfully disagree that this bill would impose that type of increased workload on the Department of Administration. We would further submit to the Committee that even if it did impose some increased workload, it is simply good policy and worth doing. I thank the state for its time and cooperation on this, but we have different views as to how much of an additional burden this would impose.

Chairman Ellison:

Are there any more questions from the Committee? [There were none.]

Senator Brower:

I just want to say thank you very much. We appreciate the Committee's attention, and we certainly urge the Committee's approval.

Chairman Ellison:

We are going to take a recess [at 11:31 a.m.].

[The Committee reconvened at 11:35 a.m.]

I am going to close the hearing on S.B. 325 (R1). I will open the hearing on Assembly Bill 493.

Assembly Bill 493: Grants power to the governing body of an incorporated city to address matters of local concern within certain parameters. (BDR 21-1296)

Wes Henderson, Executive Director, Nevada League of Cities and Municipalities:

It is a pleasure to appear today. I would like to thank Speaker Hambrick for introducing Assembly Bill 493. This bill seeks to grant charter cities limited relief from Dillon's Rule as it applies to matters of local concern. [Continued to read from prepared text ([Exhibit E](#)).]

The bill modifies Dillon's Rule regarding the authorities of charter cities over matters of local concern. The bill also contains restrictions to ensure that the authorities granted to charter cities remain limited. We recognize and support the right and duty of the Legislature to provide oversight of city governments and place appropriate limits on their authority. We believe that this bill maintains that duty while allowing city governments added flexibility to deal with matters of local concern.

Chairman Ellison:

What would this bill help the charter cities do differently versus the counties? Can you expand on what this would help the charter cities do?

Wes Henderson:

Some cities have a charter, and some cities do not. There are general law cities and charter cities in this state. Nevada has 12 charter cities, including Carson City. You are absolutely correct, cities do derive some authority from their charter, but not everything is covered in their charter, just as not everything is covered in statute. If a city wishes to make a change to their charter, they have to come before this body to get that change authorized. Where this bill would help cities is in any matter of local government concern as identified in the bill. If a situation comes up that is not covered by statute or is not covered in their charter, they can still take an action to resolve the matter of local government concern as it arises and not have to wait to come back to the Legislature to get a change in their charter the next session.

Assemblyman Stewart:

In my terms here in the Legislature, I have dealt with cities and counties on numerous occasions. I have spent hours dealing with sewer laterals. I have spent hours dealing with airports and whether runways in a city should be extended. I have noted that in the Legislature we are supposedly much wiser than the city councils and the county commissions, but then I have seen a number of us go from the Legislature to city councils and county commissions, and I wonder if in the transition we lose that wisdom that we acquired here in the Legislature, and as we sit down on the city council, we are suddenly dumbed down. I am not sure how that happens. I realize that there have been city councils that have made mistakes in both the south and the north and caused problems for their cities. Thinking about the time I have been here, I think of some mistakes that we have made and some unintended consequences for us as a body that we have had to correct. Certainly, I have made some mistakes here too. As long as you do this in a limited way—and we will be watching you very closely so you do not overstep the limited powers you are given—I think this is a good bill.

Wes Henderson:

I agree. I think this is a very well-crafted bill that gives limited, functional home rule to charter cities while still maintaining adequate sideboards to keep those new authorities within reason.

Assemblywoman Neal:

Clearly it is the same thing. Section 2, subsection 6 states, "To provide the governing body of an incorporated city with the appropriate authority to address matters of local concern...." You made the distinction of Carson City, which is created through statute, and then I looked at the Las Vegas City Charter. I am reading the Las Vegas City Charter, Chapter 517, *Statutes of Nevada* 1983, Article I, Section 1.100, Subsection 2. The charter has this authority already:

...preserve the public health, safety, prosperity, security, comfort, convenience, general welfare and property of the citizens of the City, the rule of strict construction has no application to this Charter, and it is expressly declared that it is the intent of the Legislature that each of the provisions of this Charter be liberally construed in order to effect the purposes and objects for which this Charter is intended, and the specific mention of particular powers must not be construed as limiting in any way the general powers which are necessary to carry out the purposes and objects of this Charter.

Why would anybody need more? Why do you need a carve-out of the area of local concern when there are already areas of local concern carved into certain city charters?

I did not have the time to go through every city charter, but to me you are pushing the envelope and you are going well beyond my comfort level. Once you get it, regardless of whether or not we decide two years or four years from now, I do not think this is good policy. You will probably lobby against us and try to round up enough votes to keep it. That is what I worry about. Why could you not have just settled for what we gave the counties? Why was that not good enough? That was a hard pitch to sell. Now you are coming back with the city charters, and I am trying to figure out what it is exactly that is needed that is not already established in an existing city charter.

That section of the Las Vegas City Charter is pretty broad. It is so broad and it captures so much that I do not even think you need local concern, because when you look further into the charter, the local improvement, animals, the ability to do property, all of these different things are already there. What is it that we are really trying to get at, besides the cities want to do whatever they want?

Wes Henderson:

We agree that charter cities do have a little more authority than what the counties have. The counties have nothing. We are happy that Senate Bill 29 passed for them and they now have that exception. Where this comes in and what we need it for is when a local government, the City of Las Vegas for example, wants to deal with an issue that has come up, a matter of local concern as is crafted in the bill. They are deliberating the issue and they want to do it, but their city attorney will say that they cannot do it because they do not have a specific statutory authority or a charter provision that allows them to do it. That is why the language in section 2, subsection 6, paragraph (b) modifies Dillon's Rule to say "...that if there is any fair or reasonable doubt concerning the existence of a power of the governing body to address a matter of local concern, it must be presumed that the governing body has the power unless the presumption is rebutted by evidence of a contrary intent by the Legislature." That phrase would stop that situation that I was just explaining to you where the city attorney says they do not have the specific authority. They cannot take this action even though it would be dealing with a matter of local concern. That is why we feel we need this bill.

Assemblywoman Neal:

My policy concern is, when you cite that kind of example, it makes me question whether the limitations that the cities imposed upon themselves through their own charter were not done without wisdom, thought, or guidance as to a willingness to stay within the boundaries that they decided to set for themselves, and that the limitation that the attorney says or provides to us may actually be reasonable, just, and fair? Why is there this constant need to go above and beyond what is already an established limitation, which clearly has been decided? There have been some interesting scenarios this session, which maybe would give people pause or concern about normalcy. At the end of the day, I think that most of the people who travel through this body try to think about how the limitations that were placed in statute dealt with not only the history of abuse, mistakes, and learning lessons throughout 100 years of existence that maybe we just came to the conclusion that we ought to have some limits to power and authority with certain individuals who affect the state as a whole. That is my particular policy view with this. I personally do not like it. I just think that you are asking for everything, and I am not willing to give you everything.

Wes Henderson:

The reason why we think this is important is because this is the 78th Session, and every session there have been bills enacted that govern the operations of local governments. There are also the charters that cities have that come to this body to get changes made. Given all of that, there are situations that come

up that have not come up before and that have not been thought of, so they were not included in statute or the city charter provisions. That is why we believe this bill is necessary.

Assemblywoman Spiegel:

Last session we had a bill about trash cans. That bill came about because the City of Henderson needed to have a vehicle to clearly communicate to homeowners' associations (HOA) that they could not tell people they could not keep their trash cans in the front yard, and because of changes in trash removal, many people did not have room in their garages for their trash cans anymore. I understand that some of the arguments related to this bill are that if this bill were to move forward, we would not have to have bills like the trash can bill because the city would be able to have an ordinance and overrule the HOAs. We passed the bill that gives the counties the abilities to have limited home rule. If such a scenario would come up, could the city go to the county because it is fully within the county? They can ask the county, because they have home rule, to pass a countywide ordinance that says that HOAs could not tell people they cannot keep their trash cans in the front yard under certain circumstances, thereby obviating the need for the cities to have this additional power.

Wes Henderson:

I suppose that is a possibility. Thank you for reminding me of that nightmarish bill from last session that we spent hours and hours on. It is a good example of another reason why we need this bill. Yes, a city could go to a county and try to get them to pass a countywide ordinance, but then again you are putting the cities in a subservient position to the counties. Not all the cities within a particular county may want that. It could be just a local issue. This bill would be for individual cities within the county to address individual issues within their city limits and not on a countywide basis.

Assemblyman Flores:

We talked about 12 cities having charters, and you opened up your argument on why this is so important. A lot of cities do not have charters. In those circumstances, do you think that they are much more limited than those that do have charters?

Wes Henderson:

Not exactly. General law cities operate under *Nevada Revised Statutes* (NRS) Chapter 266 and there is a provision, NRS 266.010, that grants some limited home rule to general law cities. I believe the provisions in this bill would also help them, but this was directed at NRS Chapter 268 and charter cities.

Assemblyman Flores:

I imagine that there is some version of this bill that came up in the previous session and prior to that session; this has been an ongoing dialogue, is that correct?

Wes Henderson:

Yes, sir.

Assemblyman Flores:

Can you tell me instances from the prior session to now that triggered the understanding of why we need functional home rule? Could you please be detailed in those examples. There is a philosophical argument going on about how much power we are giving away and how much you are getting, but at the end of the day, we need to understand what examples are out there. There has to be more than one example that says that you have to have this bill now. In the past two years, please give me examples of why this is necessary.

Wes Henderson:

I would go back to the trash can bill, which is an example. The City of Reno brought forth a bill dealing with graffiti that took hours and hours of their time and legislators' time as well. There are bills every session. I do not have the information with me, but former Senator Care did a study over three or four legislative sessions, and he determined that between 11 and 12 percent of the bills that are processed by the Legislature deal with local government issues that could be dealt with at the local level.

Assemblyman Wheeler:

You have been trying to get this bill through for quite a few years now. Obviously, the bill would allow the cities to make more regulations. Do you know of any cities that have regulations in mind that they would like to put in immediately? If so, what is that regulation?

Wes Henderson:

I do not have a specific example at this point, and I am not aware of any of the cities that are waiting to put regulations in. As I stated earlier, what this bill really does is resolve the times when cities are trying to take an action to resolve an issue within their city for which they do not have a specific statutory authority or a specific charter provision. Their city attorney tells them to stop because they cannot do it. That is what this bill does. As I testified to one of the home rule bills earlier in this session, one of the issues with Dillon's Rule is you do not know you have a problem until you have a problem. The problem is when the city attorney says the city cannot resolve the issue that the citizens are asking them to take care of.

Assemblywoman Joiner:

I asked the counties under a similar hearing for five examples of why they needed this. I still have not heard five examples, but I will ask it again in a different way. The examples that you have given really bring up issues that I believe we, as the Legislature, have a responsibility to worry about. We all know of well-run cities that have very responsible people at the helm, but our responsibility is to make policy choices that are good for the entire state. We all know that there are very small city councils in certain places that are not run very well or they are run by a particular family in town and there are a lot of politics involved.

Honestly, the examples that you have given cause me concern because every one of them has an example of a social justice issue, or an issue of businesses, or an issue of HOAs being involved, or a basic example of rights. If we have a particular city making a policy decision that infringes on the rights of a certain group in town just because they have the might and they have the right number of people, I think we as a body should be concerned about that. That is why I am starting to have more and more concern with this bill, whereas I walked in here with an open mind because we had granted this to the counties. That is a concern for me. I still have not heard any examples that make me think we should not make these people wait two years. If you can somehow make the case that there could be some harm to residents to have to wait to bring something to the Legislature, I would like to hear those examples. I have not heard any.

Did I hear in one of your examples that this would enable the city to change the charter without having to come back to the Legislature?

Wes Henderson:

No.

Assemblywoman Joiner:

I must have heard you wrong. You would still have to come back to the Legislature?

Wes Henderson:

Yes, it absolutely does not change those provisions.

Assemblywoman Joiner:

I wanted to make sure that was clear. So the charters cannot be amended without coming back to the Legislature?

Wes Henderson:

That is correct, or by a vote of the people.

Assemblywoman Joiner:

What does this allow you to do that you cannot currently do that is urgent or absolutely necessary that would benefit all of the residents in the state if we were to grant you this authority? Do you have five examples?

Wes Henderson:

I do not have five examples with me. There will be people from the cities coming up to testify, and they might have individual examples; I am not sure. What this bill does is when a city government is trying to take an action to resolve an issue in the city for which they do not have specific statutory authority or a specific charter provision and it is a matter of local concern, as the language in the bill states, then they can go ahead and do that; their city attorney will not stop them. Their city attorney will tell them they can go ahead unless there is legislative history that shows the local government cannot do it. The overall authority still rests with the Legislature. If you do not want a city government to do something, you can certainly enact a statute to disallow the action. Local governments have to follow all of the statutes that are in place. In past sessions on home rule bills, I would bring in a stack of papers eight inches high, double-sided, containing statutes that control the operations of local governments in the state. This is not going to open Pandora's box. This really allows local governments to deal with issues that come up that have not been put into statute or in a city charter provision in a manner to respond to an issue and to try to deal with it in an effective way for their constituents.

Assemblyman Stewart:

See if you can alleviate my fears. I am scared to death that a group of people elected by their fellow citizens in a local area are going to deal with local problems by the group of local people that elected them. I am wondering why I am scared to death about that. I wonder why one of my colleagues said that we are elected to deal with statewide problems just like the national government is elected to deal with nationwide problems. I am worried that this group of local people is going to deal with local problems. Can you tell me why I am so scared about that?

Wes Henderson:

No, I cannot tell you why.

Assemblyman Stewart:

Thank you, you are very eloquent.

Chairman Ellison:

The members of the city council and the county commission are the closest to the people. They have to wait two years to get anything done. That is why we fought so hard on home rule for the counties. They are not trying to create debt or implement fees; they are trying to perform the day-to-day operations. They have to wait two years to come back to the Legislature, and then it is not definite that their concern will be addressed. We have seen that in this hearing room. One of the strong and very vocal discussions last session was, What are you so afraid of? That is what we kept asking. I think problems get resolved when the people are in front of their elected officials and they can voice their concerns, not two years later in front of the legislative body. I think that the day-to-day operations should be with the people.

I will now hear testimony from those who are in favor of the bill.

Brian McAnallen, Government Affairs Manager, City of Las Vegas:

We are in support of this bill. We believe this is modeled after Senate Bill 29. I know that there are a lot of rumors that this is different language. It is modified for incorporated cities, but we appreciate the analysis and explanation that Mr. Powers has delivered to this Committee. We are asking for the same limited, functional home rule that the counties received.

There have been various questions about examples, and I think we can share one example affecting our city. Having not represented the city during that time, I am going to pass over the dates. During Speaker Buckley's tenure, there was an 18 percent set-aside required of redevelopment authorities (RDA) and an adjustment was made to that for a 9 percent set-aside for housing and 9 percent for education. What our city struggled with was that immediately after that was done during the legislative session, we had to seek a change to our charter, so we had to wait until the next session in order to do that. While this bill would not have allowed us to change the charter on our own, it would have allowed us to exercise and act on the direction of the Legislature where we would have been able to implement some activities and use the 9 percent set-aside for housing projects shortly after the Legislature made its decision to do the RDA set-aside for 9 percent for housing. In the time period that we had to wait until our charter was changed at the Legislature, and without this kind of a home rule permissible opportunity, we were not able to enact ordinances that would have been able to exercise the option and the direction that the Legislature had set. That time period passed, and we changed our charter, but in regard to the people who came to the table and were willing to make the investments in the RDA, and where that money could have been set-aside for some affordable housing for seniors, those opportunities were lost.

That is an example, I would suggest to you, of how we would approach trying to follow the will of the Legislature as well as meet the needs of our community when opportunities present themselves. You catch up with the paperwork when you need to, but at least those opportunities are not lost. I think that is an important example to share with you of what we could have done with the legislation that we have in front of us. That opportunity would not have been missed.

Chairman Ellison:

The district attorneys oversee the city councils, and I have never seen one that did not overrule with an iron fist. I can give you tons of ludicrous examples that I have been through over the years where we could not use common sense and had to wait to come back to the Legislature.

Paul J. Moradkhan, Vice President, Government Affairs, Las Vegas Metro Chamber of Commerce:

We are in support of this bill. As you know, we have had a long dialogue this session regarding home rule with the counties and the cities. The conversation has evolved. We previously opposed some of these home rule bills, but as we worked through our concerns with the Nevada Association of Counties (NACO) with S.B. 29 and now with the cities on A.B. 493, we are in support. The reason is even though we are looking at different perspectives on how to address these concerns at a local level, it modifies Dillon's Rule. Our previous concern was repealing Dillon's Rule, but we support the way this has been drafted by the Legislative Counsel Bureau (LCB), and I would like to thank them and Mr. Powers for his efforts in helping craft language that we believe ensures state oversight, but also ensures that local governments are able to execute on local concerns. Expanding delegated authorities is important for our local governments.

The Las Vegas Metro Chamber of Commerce works with the cities of Las Vegas, North Las Vegas, and Henderson and also Clark County. Our people are engaged. Our city council meets every single week, and we understand the needs of the city council, but balancing the needs of business. We believe that this is good public policy to move forward and allow the cities to address local concerns while preserving the needs of the business community and the residents. This is a change, but it is a modification to Dillon's Rule, and we believe this is a proper step forward. We would ask this Committee to consider this as an option today.

Tray Abney, Director of Government Relations, The Chamber, Reno-Sparks-Northern Nevada:

I will associate myself with the comments made by the Las Vegas Metro Chamber of Commerce. We think this makes sense. We worked out the language with the counties. We thought it made sense to have similar language with the cities. As somebody who represents a constituency that is at the other end of the state from where two-thirds of you reside, we think it makes a certain amount of sense to let us figure out our own problems without having to come down here and bother you with them. We support this bill.

Assemblywoman Neal:

Mr. McAnallen, I do not know if I heard your example correctly in terms of the ordinance. The 18 percent split into 9 percent and 9 percent came into existence under Speaker Buckley?

Brian McAnallen:

That is my understanding. That is why I prefaced my comments. I do not know which particular session it was instituted. I do not know if it was when she was the Speaker or leading one of the committees, but it was an issue that she was working on and specifically created the 18 percent split with 9 percent and 9 percent. It was one we were not able to act on quickly enough until our charter was changed.

Assemblywoman Neal:

You said that you were not able to create an ordinance after she did it or when she did it?

Brian McAnallen:

I was trying to express that during that time period we had to wait until the following session to change our charter, so we were not able to do anything with ordinances at that time to be able to capture the opportunities that were being presented related to affordable housing options in our RDA, and our RDA won, by the way. Again, we had to wait until we brought it back up, got it through the Legislature, and amended the charter. If we had these opportunities, we would have been able to create an ordinance to exercise on it right away until we then came back and amended our charter.

Assemblywoman Neal:

Las Vegas City Charter, Chapter 517, *Statutes of Nevada* 1983, Article I, Section 2.147, which is the "Powers of City Council: Affordable housing," says that this was put into statute in 2007, which gave the counties the authority to basically determine what was necessary and proper for the development and the

provisions of the affordable housing. I was trying to get a timeline on the 18 percent split because I thought it was either in 2009 or 2011 because I know that Assemblywoman Kirkpatrick tried it. There was a 9 percent split and then there was a moratorium on affordable housing in 2011. I am going to double-check the legislative history to make sure that it did not happen in 2005, which would mean that the statute was developed in 2007 for a 9 percent and 9 percent moratorium. I just do not recall the split happening in 2005, but I could be wrong.

I would like to have clarification on Las Vegas City Charter, Chapter 517, *Statutes of Nevada* 1983, Article I, Section 2.120, which is titled "Powers of City Council: Exercise by ordinance." It says, "When a power is conferred upon the City Council to do and perform any act or thing, and the manner of exercising that power is not specifically provided, the City Council may provide by ordinance the manner and details which are necessary for the full exercise of that power." That came into existence in 1983. How has that particular provision of the charter limited you or disabled your ability to create ordinances that fall within the necessary or full exercise of a power, when in the absence there is no specific instruction from us to tell you what to do or to provide the details? How has that provision been a limitation that would make you need this bill?

Brian McAnallen:

I asked the city attorney for more clarification on that while you were asking me the question. I will be happy to give you an answer once I receive it.

Assemblywoman Spiegel:

Section 6, subsection 2 of the bill deals with defining what terms are included in matters of local concern, including public health, safety, and welfare in the city and also nuisances and graffiti. Several years ago Mayor Oscar Goodman communicated loudly that he thought people who vandalized property through graffiti should have their thumbs cut off. If something like this bill were in place and there were a mayor of a municipality who had strong feelings like that and was a charismatic and persuasive person, would there possibly be ordinances that would do something similar? Maybe not quite as dramatic, but something that many of us feel might be draconian?

Brian McAnallen:

I recall those aggressive statements that Mayor Goodman made because he felt extremely passionate about the graffiti situation at that time and wanted to make a clear point to the community and the vandals that it was not permissible. A city council is made up of more than just one person, and I think when it comes time to make those decisions, and what is best suited for the

community, that it is a collaborative process. You represent a lot of those constituents, and our city councils represent those same constituents. They are going to take into consideration all issues as they adopt these ordinances. Like all things that happen, this Legislature still has the ability in the next legislative session to reverse, change, or adjust anything that is done at the local level. I would suggest that this body is sort of the ultimate check on any local government, be it a county or a city that may get beyond the wishes of the Legislature.

Kevin Powers, Committee Counsel:

In the circumstance that Assemblywoman Spiegel mentioned, where we are dealing with a criminal statute, the existing general statutes in the state allow cities and counties to adopt ordinances creating criminal violations; however, the punishment for those ordinances cannot be any greater than what the statutes already allow. I believe for a misdemeanor in this state, the maximum punishment is six months in jail and a maximum fine of \$1,000. A city could not develop a punishment such as cutting off thumbs or something less severe. That would be contrary to a statute. What this bill provides is that a city cannot take any action on a matter of local concern that is contrary to a statute. This would be an example of where the statute would control the exercise of discretion by the city council.

Chairman Ellison:

What this legislative body can give, it can take too. It is not that this gives an open book forever. It gives a chance to operate under home rule, and I think it is important.

Assemblyman Stewart:

That was kind of an outlandish statement that the former mayor made. I hope none of us in this Committee are ever guilty of doing anything like that.

Scott F. Gilles, Legislative Relations Program Manager, Office of the City Manager, City of Reno:

We also acknowledge and understand the timing of this bill is unfortunate, but I can tell you that if this language would have been agreed to by all the invested parties earlier in the session when the discussions with Senate Bill 11 were taking place, we would have tried to jump onboard with that language. I apologize for the timing of this. As soon as the language in S.B. 29 was provided, the City of Reno began to look at it very seriously. Our deputy civil attorney spent a lot of time looking into it and he concluded that it was an improvement on the current state of affairs—not a large improvement, but it moves the needle a little bit. It would give him a bit more flexibility when he is

analyzing a particular proposed ordinance up against what this law would provide as well as existing case law. He ultimately presented that to our council, who voted unanimously to support it. We think it is an improvement. We do not believe it is a large step, but it is a safe step.

I think the lack of overturned ordinances in the City of Reno and some of the other cities suggest that city attorneys are not looking at these rules in a liberal fashion. They are not allowing the cities to push the limits. At least this is the experience shared with me by our city attorney, specifically to the City of Reno.

I do not have a laundry list of examples where this would help, but I would like to go back to a comment Mr. Henderson made on the graffiti bill, Senate Bill 56. There were pieces of that bill that dealt with some criminal penalties and social justice issues which was the most controversial part of that bill. The primary objectives of that bill were some changes to civil statutes to give cities more flexibility to abate or remove graffiti once it had been placed on the property. The City of Reno had a graffiti task force composed of members of the public who looked into this issue. One of the recommendations was that there is language in NRS Chapter 244 that allows counties to adopt ordinances that provide for some abatement flexibility. Our city attorney looked at it and said we could not adopt it as an ordinance because of the current state of affairs with Dillon's Rule. We had to include it in our bill and bring it as one of the city's bill draft requests (BDR). That is an example where if this bill was in place, we would have been able to adopt an ordinance to abate graffiti on residential and nonresidential property. We would have been able to adopt an ordinance that was specific to the City of Reno and the City of Reno's needs as opposed to going through this body to adopt language that allowed cities statewide to adopt an ordinance. We could have tailored it specifically to the City of Reno. That is an example of why this bill would have been helpful to at least our local government.

Adam Mayberry, Community Relations Manager, City of Sparks:

We support the bill. I want to associate myself with all of the comments that have already been said. We are not looking to add more regulations or rules for the city. This is to some degree an opportunity and a tool for us to be a little bit more reactive on things that may come up that we are not clear on, whether it be land use, planning matters, or code enforcement matters. That is why some limited form of home rule for the cities is something that we strongly support.

George A. Ross, representing City of North Las Vegas:

Absent detailed discussion on particular examples, the City of North Las Vegas agrees with the testimony of Mr. McAnallen of the City of Las Vegas and is in support of this bill.

Assemblywoman Neal:

In 2013, there was a city charter bill for the City of Reno. It was huge, about 100 pages. It was a super overhaul. Did that not help with any of your needed activities? It was a long discussion. There were long group meetings over a period of time. You all came together and then the argument was the charter needed to be changed because it had not been changed in forever and we needed to really look at the needs of the city. What did not occur in the 2013 bill? Then you had one this session. Between those two sessions, what is it that you are missing so that you now need this bill?

Scott Gilles:

As far as the bill from last session on the Reno City Charter, I do not know the history on some of the substantive changes that were made other than the creation of the Charter Committee, which put in place a very defined, specific provision over a two-year time period to come up with recommendations that the City of Reno ultimately approved and put into one of their two BDRs, which this Committee heard. I am not sure what was in that bill other than the creation of the Charter Committee and setting out that process. As far as my specific example, the graffiti bill, I do not know why that change was not included in our charter bill other than that was not one of the recommendations of the Charter Committee to the city council. The graffiti issues came from a different task force.

Assemblywoman Neal:

When you look at the statutes for 2013, there are several changes. It was not just a Charter Committee. There are salary changes and how you consider and adopt measures; they did a lot. I would like to have a conversation about what was really in the bill because the *Statutes of Nevada* for 2013 show all of the changes and provisions to the specific sections of the Reno City Charter.

Scott Gilles:

I understand what you are saying; it makes a lot of sense. Part of the change the city supports in this bill is the ability and flexibility to adapt to issues and enact ordinances on matters of local concern between the time frames of legislative sessions. I think S.B. 29 and this bill are crafted in a way to where there are enough safeguards so that the cities are going to be limited to areas and issues on which they should be adopting ordinances without crossing the line. I realize the line is very subjective depending on who is looking at it. With my example of graffiti, there may be members on this Committee who think that the graffiti abatement ordinance should have come from this body as opposed to an ordinance at the city level, but I think one of the benefits of this

law would have allowed us to adopt an ordinance that fit the City of Reno specifically as opposed to coming here and creating a rule in NRS Chapter 268 regarding graffiti abatement that has to apply to every incorporated city across Nevada.

Kevin Powers:

I want to discuss some general principles that deal with the mechanics and statutory construction of how state and local power work together. Essentially a city charter serves as the local constitution for the city. It is supposed to establish structural government for the city, state broad policy principles for how cities should be operated and run, and provide certain limitations on governmental power; however, the day-to-day details are applied through local ordinances and, therefore, you do not have that level of detail in the city charter because it serves as a local constitution. By analogy, the state constitution serves that overarching purpose of providing the general limitations on power, and then the Legislature, through the enactment of statutes, carries out the day-to-day functions of government and regulation of civil society.

When you look at a city as they operate, they first look to their general power through their city charters, then they look to the statutes for any power. If they cannot find express authority in either of those sources, then Dillon's Rule kicks in, and it limits the city from actually accomplishing the task they are trying to accomplish without the specific express statutory authority. What this bill would do is grant the city the power to deal with those matters in the areas of local concern.

What will give the city attorneys comfort is that Dillon's Rule has been modified so that in those times when the city cannot find the express statutory or charter authority, it will then apply this bill and any doubt will be resolved in favor of the city unless it is rebutted by evidence of a contrary legislative intent. In those contexts, the city attorney, instead of what they would not have done in the past out of an abundance of caution, now will say you may act because we can defend our actions in court. As an attorney who represents government bodies, we act with an abundance of caution because ultimately we fear liability and large damage numbers. We act out of an abundance of caution when we advise our clients in order to ensure that we are not facing large damages in attorney fee claims. However, with this modification of Dillon's Rule, the local government attorneys will have greater comfort. They will be able to advise their clients to move forward, and it will provide them with the greater flexibility within the area of matters of local concern. I have to emphasize I am explaining the mechanics of the bill, but LCB does not support or oppose any particular piece of legislation.

Chairman Ellison:

Is anyone else in favor of the bill? [There was no one.] Is anyone opposed to the bill? [There was no one.] Is anyone neutral?

Tom Grady, representing City of Fallon:

The City of Fallon falls under NRS Chapter 266. I will tell you we have gone back and forth on this issue on all four of the bills that have been brought forward. The counties needed some help, and they got it in S.B. 29. The charter cities need some help too. The City of Fallon is a general law city.

The only concern I have is that this bill has an overlap that brings the cities under general law into this legislation also. Keep in mind that the general law cities cannot change what they are doing unless it is changed in statute. When that happens, it happens to all general law cities. We cannot come to the Legislature and say that the City of Fallon wants to do something, but another city does not want to do it. What you put in NRS Chapter 266 is what all general law cities have to follow; they do not have a choice. Chapter 266 of the NRS does state that the general law cities do have limited home rule. That helps the situation, but regardless, all of the general law cities fall under NRS Chapter 266.

I talked to our city this morning. They are a little concerned. I do not know where the rest of the general law cities stand at this time. I have not had the time to reach out to all of those cities, but Mr. Henderson may know. We applaud the effort of passing this legislation or like legislation for the counties, and we believe that NRS Chapter 268 definitely needs some help. Truthfully, the bill is not going to make a big difference to the general law cities because we are under general law.

Kevin Powers:

General law cities are governed by NRS Chapter 266, which is their primary authority. It serves essentially as their charter because they do not have charters. However, NRS Chapter 268 is called "Powers and Duties Common to Cities and Towns Incorporated Under General or Special Laws." As a city under NRS Chapter 266 operates, it looks first to NRS Chapter 266, but then it can look to NRS Chapter 268 as well. This bill does also apply to NRS Chapter 266, the general law cities; it is just that they look first to NRS Chapter 266 and then to NRS Chapter 268, and this bill would give them the same authority over matters of local concern as an incorporated city under a special charter.

Paul J. Enos, Chief Executive Officer, Nevada Trucking Association:

We are here today to testify neutral on A.B. 493. It is consistent with our position on S.B. 29, where we were able to come to some agreement with the counties early on with language that deals with regulating business activities that are subject to substantial regulation by a state or federal agency. Section 7, subsection 3, says, "Except as expressly authorized by statute or city charter, the governing body of an incorporated city shall not," and that is regulate those business activities subject to substantial regulation by a state or federal agency. That is important to the industry I represent. We are crossing multiple jurisdictional lines on a daily basis. We do appreciate that uniformity. We do think this is a much better bill. We appreciate the work that Mr. Wadhams did on Dillon's Rule. We are neutral. We have been opposed to cities getting home rule in numerous bills such as Assembly Bill 413, but we think that this measure is much better than what we have seen in earlier iterations.

Chairman Ellison:

Does the Committee have any questions? [There were none.] I have lived home rule with Elko. I sat on the planning commission, the city council, and the county commission, and I saw so many times where you cannot make decisions on a local level. Sometimes it is a minor change and you still have to wait to bring it to the Legislature. I can give you all kinds of different examples. This year we had to create a bill to bring back a Washoe County park. That might have been able to be done at the local level. Mr. Henderson, do you have any closing statements?

Wes Henderson:

I would like to thank you and the Committee for your time and consideration on this bill. I would also like to thank Mr. Powers for his work on this measure and help in drafting the language. I would like to reiterate that this is language that is virtually identical to the language that was passed in S.B. 29 with just some technical changes to make it apply to cities.

Chairman Ellison:

Are there any other questions from the Committee? [There were none.] I am going to give everyone time to look over the two bills that were presented today. Is anyone here for public comment? [There was no one.] We are in recess [at 12:44 p.m.].

[The Committee reconvened behind the bar of the Assembly at 5:16 p.m.]

[Assemblyman Nelson was temporarily assigned to the Committee to sit in for Assemblywoman Dooling, and Assemblyman Gardner was temporarily assigned to the Committee to sit in for Assemblyman Moore.]

Chairman Ellison:

I am requesting the Committee take action on Assembly Bill 493.

Assembly Bill 493: Grants power to the governing body of an incorporated city to address matters of local concern within certain parameters. (BDR 21-1296)

Jered McDonald, Committee Policy Analyst:

Assembly Bill 493 was heard in this Committee today and sponsored by Assemblyman Hambrick. The bill provides that the governing body of an incorporated city is authorized, with certain exceptions, to exercise all powers necessary or proper to address matters of local concern for the effective operation of city government, whether or not the powers are expressly granted to the city government. Matters of local concern include any matters that primarily affect or impact areas located in the city, or persons who reside, work, or visit the city, and that do not have a significant effect or impact on areas located in other cities or counties. These powers remain subject to all federal and State constitutional, statutory, and regulatory provisions. The bill also provides a list of powers the governing body of an incorporated city cannot exercise without being expressly authorized by law.

The Nevada League of Cities is directed to compile and report on information regarding the implementation of the provisions of this bill to the next regular session of the Legislature in 2017. [Work session document ([Exhibit F](#)).]

Chairman Ellison:

I will entertain a motion.

ASSEMBLYMAN WHEELER MADE A MOTION TO DO PASS
ASSEMBLY BILL 493.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

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

We are adjourned [at 5:20 p.m.].

RESPECTFULLY SUBMITTED:

Jordan Neubauer
Committee Secretary

APPROVED BY:

Assemblyman John Ellison, Chairman

DATE: _____

EXHIBITS

Committee Name: Assembly Committee on Government Affairs

Date: June 1, 2015

Time of Meeting: 10:49 a.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance Roster
S.B. 325 (R1)	C	Department of Administration	Fiscal Note
S.B. 325 (R1)	D	Department of Corrections	Fiscal Note
A.B. 493	E	Wes Henderson / Nevada League of Cities and Municipalities	Prepared Text
A.B. 493	F	Jered McDonald / Committee Policy Analyst	Work Session Document