MINUTES OF THE MEETING OF THE ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS

Seventy-Eighth Session April 10, 2015

The Committee Government Affairs called on was to order Chairman John Ellison at 8:16 a.m. on Friday, April 10, 2015, in Room 4100 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, Legislative Counsel Bureau's Publications Office (email: through the 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
Assemblyman Ellen B. Spiegel
Assemblyman Lynn D. Stewart
Assemblyman Jim Wheeler
Assemblywoman Melissa Woodbury

COMMITTEE MEMBERS ABSENT:

None



GUEST LEGISLATORS PRESENT:

Assemblyman John Hambrick, Assembly District No. 2

STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst Eileen O'Grady, Committee Counsel Lori McCleary, Committee Secretary Aubrie Bates, Committee Secretary Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Wes Henderson, representing Nevada League of Cities and Municipalities Tom Grady, representing City of Fallon

Lea Tauchen, Senior Director of Government Affairs, Grocery and General Merchandise, Retail Association of Nevada

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

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

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

Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada

Brian McAnallen, Government Affairs Manager, City of Las Vegas

Robert Ostrovsky, representing City of Las Vegas

Warren B. Hardy II, representing City of Mesquite

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

Javier Trujillo, Director of Intergovernmental Relations, City of Henderson

Adam Mayberry, Community Relations Manager, City of Sparks

Jeff Fontaine, Executive Director, Nevada Association of Counties

Richard Daly, representing Local 169, Laborers International Union of North America

Chairman Ellison:

[Roll was called. Committee rules and protocol were explained.] We are going to take <u>Assembly Bill 413</u> first and welcome Assemblyman Hambrick to the table.

Assembly Bill 413: Grants powers to certain cities to perform acts or duties which are not prohibited or limited by the Constitution or statute. (BDR 21-587)

Assemblyman John Hambrick, Assembly District No. 2:

What you have before you is <u>Assembly Bill 413</u>. Some of the Committee members and I were at a training session and went over the Dillon Rule. Nevada is a Dillon Rule state. There were certain aspects of the Dillon Rule that I had questions about, including the authority of the Dillon Rule with the counties being supreme over the cities. That bothered me a little. As best I could, I came up with <u>A.B. 413</u> to try to give the cities a little independence with regard to their own decision-making. Apparently, this has created quite a tornado.

I understand there is a conceptual amendment to A.B. 413 (Exhibit C), which will essentially gut the original A.B. 413. That does not bother me at all, as long as you give me anesthesia beforehand. I would ask that you look at the conceptual amendment. There will be several for and against this bill. Again, my original intent was to have the cities have some relief from the Dillon Rule, particularly the larger cities, including Reno, Sparks, Las Vegas, Henderson, Boulder City, et cetera. The smaller towns and cities would not be affected by this bill.

I know there are many people behind me who are on both sides of the issue. I would like to introduce Wes Henderson, who will be making comments about the conceptual amendment. I will remain here until the Committee has completed the vetting of this bill.

Wes Henderson, representing Nevada League of Cities and Municipalities:

I would like to walk you through the conceptual amendment (<u>Exhibit C</u>). However, I will be testifying in the neutral position for this bill later.

The conceptual amendment before you does several things. First, it deletes sections 1 through 5 of the original bill. These sections are unnecessary, as the provisions of *Nevada Revised Statutes* (NRS) Chapter 268, which the rest of the bill refers to, apply to both general law and charter cities.

Secondly, in sections 7 through 11 of the bill, the population cap has been removed so the provisions apply to all incorporated cities.

Chairman Ellison:

I am sorry to interrupt, but which amendment are you looking at? Is it the amendment that is posted to the Nevada Electronic Legislative Information System (NELIS)?

Wes Henderson:

Yes. It says at the top "Conceptual Amendment."

Chairman Ellison:

Please continue.

Wes Henderson:

Section 12 of the amendment is a newly inserted section which defines instances when an incorporated city must have authority expressly granted by statute or city charter provisions to take certain actions. These actions include conditions that limit their city liability, prescribe the law governing civil actions between private persons, impose duties on another governmental entity unless the duties are part of a contract, impose a tax, and order or conduct an election. In addition, section 12, subsection 2, states, "Except as expressly granted by statute or city charter or necessarily or fairly implied...(a) Impose a service charge or user fee; or (b) Regulate business conduct that is subject to substantial regulation by a federal or state agency."

Finally, the addition of section 13 specifies the act becomes effective upon passage and approval.

That is the amendment, and I would be happy to answer any questions. Again, I would like to preface my remarks by saying the Nevada League of Cities and Municipalities is neutral on this bill.

Chairman Ellison:

Mr. Henderson, is this basically a copy of what was presented in the Senate by Senator Goicoechea?

Wes Henderson:

This language is pretty much a carbon copy with the exception of the inclusion of the city charter provisions. Counties do not have charters. That language was not included in <u>Senate Bill 29</u>.

Chairman Ellison:

Was the deletion of sections 1 through 5 in <u>S.B. 29</u>?

Wes Henderson:

No. Sections 1 through 5 dealt with NRS Chapter 266. The bill that applies to the counties, S.B. 29, deals with NRS Chapter 244.

Chairman Ellison:

Are there any questions from the Committee?

Assemblywoman Neal:

In section 7 of the conceptual amendment, it states, "It is expressly declared as the intent of the Legislature to grant an incorporated city the powers necessary for the effective operation of city government." Section 8 states, "The rule of law that any doubt as to the existence of a power of an incorporated city must be resolved against its existence is abrogated." What are you doing there? Under *The Constitution of the State of Nevada*, Article 4, Section 25, it states, "The Legislature shall establish a system of County and Township Government which shall be uniform throughout the State." If that is the constitutional bar, what does this allow you to do in terms of not having uniformity?

Wes Henderson:

What section 8 refers to is the basic principle of Dillon's Rule, which says if it does not have specific statutory authority, a local government cannot take an action. What local governments have been trying to get to for many years is to turn that right side up, to say unless there is a statutory or constitutional provision that limits or prohibits the local government from taking an action, a local government can take that action. Section 8 takes away the provision that a local government has to have statutory authority ahead of time. If there were a statutory provision, a local government would have to follow that.

Assemblywoman Neal:

Give me a real-life example of section 8.

Wes Henderson:

Last session, the Nevada League of Cities and Municipalities brought a bill that would allow people living within a homeowners' association to store trash cans outside. We had to come to the Legislature to get that bill through instead of using the city council, who wanted to allow this. The city council could not create an ordinance to allow that.

In the past, Clark County had to come to the Legislature to get a bill passed to allow them to tow abandoned cars off property the county owned because their district attorney opined they did not have explicit statutory authority to do so.

This bill is attempting to eliminate that step. Unless the county is prohibited from towing an abandoned car from county-owned property, they can do that without having to get explicit statutory authority to do so.

[Assemblyman Moore assumed the Chair.]

Assemblywoman Spiegel:

If this bill were to go through and there were home rule, and a city were to be in financial difficulty and felt the need to declare bankruptcy, is that something that would have to come to the Legislature or could they do it on their own? What impact would that have on the state's bond rating? Could you explain the interrelationship of the finances and how that would work? I see in your amendment that the cities would be able to spend whatever money they want, but they would not be able to impose a tax, service charge, or user fee.

Wes Henderson:

The current situation between finances or financial emergencies would not change. The status quo would still be in place because there are numerous statutes regarding local government's finances with which they must comply. This bill does not go into the finances, and it does not give cities the authority to declare bankruptcy. They would still have to follow the procedures that are currently in statute, both in budgeting and if in financial distress.

Assemblywoman Joiner:

I was also looking for what the need is regarding this bill, and you gave some examples of instances that make sense to me. My question relates to section 8, subsection 2, the last sentence, which states, "This rule applies even though a statute granting the power has been repealed." It is my understanding that we usually do not pass statutes that would override statutes in the future by anticipating something would happen. What is the real implication of that sentence? My follow-up question might be one for staff, but has this amendment been examined for its constitutionality and whether or not this would actually work in Nevada?

Wes Henderson:

To answer your first question, I will have to get clarification, but that language actually came from the Legislative Commission's Committee to Study Powers Delegated to Local Governments in 2009 and 2010. That was the first time this bill came forward, and this language was in there. It has been carried forward every session since then. I think it means should the Legislature repeal a statute that was an authority the city had been using, they could continue to use it. That is the best I can answer that question for you. I will follow up with you. I have forgotten the second part of your question.

Assemblywoman Joiner:

I would like to follow up on my first question. Earlier in your testimony, you said that if the Legislature ever decided that a city or a county could not do something, under this bill, the Legislature would still have that authority. Section 8, subsection 2, seems to say that if we decide to repeal a right or an authority of a local government, it does not matter that we repeal it, they can still do it. I still have an issue with that last sentence.

Wes Henderson:

I understand your concern. I will have to follow up with you on that because I cannot answer that question right now.

Assemblywoman Joiner:

To clarify my second question, it was relating to whether this amendment had been examined for its constitutionality, whether it would work in Nevada, and what implications it might have.

Wes Henderson:

I do not know if the Legislative Counsel Bureau Legal Division has looked at this amendment for constitutionality, but I do not see where it would not be constitutional.

Chairman Ellison:

This bill does not give local government tax authority. It does give them operating authority. They would not have to come back to the Legislature every two years unless it is a constitutional issue. Is that correct?

Wes Henderson:

Yes. This bill helps local governments take action at a public hearing to correct circumstances that may arise. This bill only applies to the cities. It prevents the city attorney from saying the city cannot take that action because the city does not have specific authority to do so.

Assemblywoman Neal:

This relates to Assemblywoman Joiner's question regarding the last sentence in section 8, subsection 2. I would love to find the 2009 study. In Article 4, Section 21 of the *Constitution of the State of Nevada* regarding general laws to have uniform application, the last part of the sentence states, "...all laws shall be general and of uniform operation throughout the State." How can you have uniform operation if it does not exist and the law was repealed? What are you operating under? That is legislative authority. The *Constitution* says general laws have to have a uniform application. If it was repealed, that means it was no longer viewed as a law the Legislature wanted to keep. Is that correct?

Wes Henderson:

Yes.

Assemblywoman Neal:

Yet the local government still has the authority to use what the Legislature had decided they wanted to remove?

Wes Henderson:

I understand your concern with that sentence. I do not think we have any problem removing that sentence. This language has been copied forward from at least the 2009 Session.

Assemblyman Flores:

Has this type of language been proposed before in prior sessions? If yes, how many times and why did it not pass? If this is the first time we are seeing this language, why do we feel we need it now? Obviously, we want governments to come back every two years because we are concerned if we give them free rein, we are going to be bringing them back every two years to start limiting their power. In other words, either we bring the local governments back every two years to give them authority, or we bring them back every two years to start cutting some of their authority because of concerns of misuse.

In section 12 of the amendment, you obviously realized we do not want to give local governments authority to do certain things. I am concerned that we are going to go in the opposite direction and in future sessions begin adding authority in section 12 to expand on powers the Legislature did not intend the local governments to have. Could you elaborate on that?

Wes Henderson:

To answer your first question regarding this language, yes, this language has been here before. As I said, there was an interim study in 2009-2010. A bill in the 2011 Session passed out of the Senate Committee on Government Affairs and the Senate as a whole. It never received a hearing in this Committee. The same language was brought back in the 2013 Session. Again, it passed out of the Senate Committee on Government Affairs and the Senate as a whole. It had a hearing in this Committee, but no action was taken.

The struggle to bring home rule to local governments in the state has been going on for decades. Former Senator Terry Care was a big proponent of functional home rule. That is what we are after here: functional home rule, the day-to-day operations of the government. Senator Care did a study, but I do not have the facts and figures here. I am sure I can get them. Over a number of sessions, between 9 percent and 12 percent of the bills this body has to deal

with are regarding local government issues that could be handled at the local level.

I do understand your concern about adding to the list of limitations. That is a legitimate concern. However, what it does allow for is if something were to come up in July of this year. For example, there is an issue in the community, the community wants action, the local government is trying to respond but is told by their attorney they cannot take action because they do not have specific authority. The clock then stops. The issue in July 2015 must wait until a bill is brought forth in 2017, goes through the process, and is passed. It may be two years before the local government can get the specific authority to respond to that one situation the community wanted addressed two years before.

I understand from the legislative side that you cannot allow city governments to do certain things and may have to wait two years to stop them. We are trying to find the proper balance for autonomy for local governments. We appreciate and recognize the responsibility of the Legislature to provide oversight on local governments. Quite frankly, sometimes we are glad we have that because we can blame you for why we cannot do things. It is nice to have a fall guy, but we would like more authority to handle the day-to-day operations of our city government.

Assemblywoman Spiegel:

In reading through section 7 of the amendment to essentially grant functional home rule to an incorporated city, is it the intent of this bill to limit it to cities and not extend it to counties?

Wes Henderson:

The counties have a separate bill, <u>Senate Bill 29</u>, which is basically identical to this bill and applies to NRS Chapter 244. <u>Assembly Bill 413</u> with this amendment would only apply to NRS Chapter 268. There is a parallel movement.

Assemblywoman Spiegel:

If this bill were enacted into law, would a city have the option of opting out of a school district?

Wes Henderson:

No. If it is not allowed in current law for a city to opt out of a school district, they could not do that under this bill.

Chairman Ellison:

Are there any further questions from the Committee? [There were none.] Those in favor of <u>A.B. 413</u>, please come forward. [There was no one.] Those in opposition to the bill, please come forward. Please keep your comments to three minutes.

Tom Grady, representing City of Fallon:

As some of you know, I have spent 12 years where you are now. I was always the champion for local governments. I would like to take my three minutes to talk a little bit about what we have done here. There have been three bills presented so far. We started with <u>Senate Bill 11</u>, which included cities and counties. There were numerous amendments that could not be agreed upon. That bill is still sitting in the Senate Committee on Government Affairs with no action. <u>Senate Bill 29</u> addresses the counties only. The counties needed that bill. Now we have <u>Assembly Bill 413</u>, which has had a number of amendments. The folks who have been working on this probably have 100 hours in amendments by this time.

I would like to point out what happens in Nevada. We have general law cities and we have charter cities. Charter cities operate on what the Legislature tells them they can do. Most charter cities have a charter committee that brings bills to this body to have changes made in those charters. General law cities function under NRS Chapter 266, which gives them limited home rule power. This has been going on for years.

To show you the differences in Elko County, there are four cities. Elko, for the rurals, is the urban area and is much different from the other three cities. In Washoe County there are Reno and Sparks, and then a large unincorporated area. In Douglas County, there are no cities. There are a number of counties that do not have cities. Each of these has to be looked at differently. Years back, cities did municipal work and counties were for the unincorporated areas. As growth has come about, the counties are now in municipal services. I might say forced into municipal services because of growth. Those of you from Clark County, if you take some of your towns within Clark County, they are probably bigger than most of our cities. Every one of them is different.

I have talked to Assemblyman Hambrick about this bill. He knew I was going to oppose the bill as written. I do not think it is necessary.

Assemblyman Wheeler:

Is that not exactly why we have the ability in this body to make population caps so we can form our statutes to different counties, cities, et cetera? Like you,

I do not see a need for this bill. We are able to make statutes that affect certain areas of the state. Is that correct?

Tom Grady:

You are correct. However, in this bill, in its original form, we were bringing forth cities fewer than 15,000 in population. There are charter cities that are right at the 15,000 or barely above it, the City of Fernley being one of them. The last time I talked to the representatives from Fernley, they were not in favor of this legislation either. The 15,000 population cap has crossed over into both general law and charter cities.

Assemblywoman Neal:

I would like to get a little history on this point. It is my understanding, when I was reading a *Nevada Law Journal* article, that we have a certain number of cities that were created by special acts. We have seven incorporated cities by general law. Is that accurate? Would section 12 only speak to the incorporated cities by general law, which also includes Fernley?

Tom Grady:

As I understand it, you are correct. Mr. Henderson may be able to answer that better than I can because he worked on this amendment, and I did not.

Assemblywoman Neal:

I was reading that there are special acts that have also been used to create approximately 14 other municipal corporations. This, then, would not apply to them. There is not uniformity because it only applies to one kind of city. Is that an appropriate reading?

Tom Grady:

The charter cities come to the Legislature with charter changes using mostly charter committees. The charter committees then go to the city council and the city council brings legislation to this body to change their charters. General law cities normally go through the Nevada League of Cities and Municipalities when they need a change. Whatever this body changes in the general law changes it for all the general law cities. The two are different.

Eileen O'Grady, Committee Counsel:

The provisions in sections 7 through 10 are in NRS Chapter 268, so they would apply to both the charter cities and the general law cities, so all incorporated cities.

Chairman Ellison:

Does that answer your question, Assemblywoman Neal?

Assemblywoman Neal:

Yes.

Assemblyman Flores:

I am trying to draw an argument by analogy. Are there any other scenarios in our NRS where we have done this? Has going back every two years to give an entity power been problematic because in the interim they had no authority to act on little things? Has this body said the appropriate route is to give local government the authority to take as much action as necessary so long as there is nothing contradictory? Has this body ever decided that is the way to do it because it was successful? Or, have we done it and then realized it was problematic because we are finding ourselves having to draft what they cannot do? Or, maybe this has not happened. I was hoping you have some knowledge on that.

Tom Grady:

I believe Mr. Henderson touched on this. This has been going on for years. The Legislature has kept control over financial home rule. Under functional home rule, cites are given a little more latitude. Again, they have to go by their charters or by NRS Chapter 266. General law has been argued here for the 30 years that I have been associated with this body.

As mentioned, Senator Care had a bill. Senator Ann O'Connell tried to bring forward a bill. Senator Raggio nixed that bill because he did not want local governments to have home rule. It has been going on for years. I do not think this body will solve all the problems this year.

Lea Tauchen, Senior Director of Government Affairs, Grocery and General Merchandise, Retail Association of Nevada:

We are in opposition to the bill as it was written originally. We are concerned with the blanket authority that would provide the ability for more stringent regulations on business and the impact that may have on commerce, especially for many of our companies that work across multiple cities and counties throughout the state, and the confusion and compliance issues that may cause for the business, as well as for the customer, and the competitive advantage or disadvantage that may create across various jurisdictions.

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

Mr. Grady said it well about all the bills and amendments that have been flying around on this issue. I have done my damnedest to stay out of the home rule issue this session, much to the chagrin of some of my lobbyist friends at the table and in the crowd. I will tell you why I have tried to stay out. I represent

members who live and operate at the other end of the state from where most of the population lives and where most of the legislators live. I thought functional home rule makes a lot of sense. We would not have to bother Clark County people with northern Nevada problems. We could do it ourselves with as much power as we could gain on the functional level.

This bill, as written, certainly opens the door to fiscal home rule, which is a much more difficult proposition. Mr. Grady mentioned the three jurisdictions in Washoe County. When I have a chamber member who has a business or operates in all three of those jurisdictions, we need some kind of consistency with taxing authority, fee authority, and all the things that go along with that.

We are opposed to this bill as written. However, we certainly support the concept of functional home rule. Fiscal home rule could certainly be a problem, and we think those types of issues need to be solved in this building with this body.

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

We are here to oppose <u>A.B. 413</u> as written. We do think as the bill was originally written, it does grant very broad authority to cities. For an industry that does business in multiple jurisdictions on a daily basis, that is a little frightening. We worked a lot on the other side with <u>Senate Bill 11</u>, which, as Mr. Grady said, is still sitting in the Senate Committee on Government Affairs. We are trying to come up with some language that would give business some kind of certainty for local government so we do not have that patchwork of potentially 35 different laws that we are trying to follow. With the cities, we could never come to language that would work for them.

We were able to work with the counties for <u>Senate Bill 29</u> and came to an agreement. That is what you see in the conceptual amendment that Mr. Henderson presented. Section 12, subsection 2(b), states a city shall not "Regulate business conduct that is subject to substantial regulation by a federal or state agency." We think that does give us some semblance of protection so we can ensure we are not going to have laws that are compounding on what we are doing on a state or federal level, or even conflict with those.

I have some sympathy for Mr. Henderson as well. He should not have to come here to ask for permission regarding garbage cans, preventing prisoners from having cell phones, or all those other things we have heard. When we start talking about business and how we are going to impact business, we do think we should have some limiting language. It is tough to come up with something that tries to keep the status quo in place. I like the fact that we can come to the Legislature. If a local government wants to do something that impacts

business, we can have that conversation in a broader context. It is 63 people who are ultimately going to make that decision, as opposed to three or four people. We do think this is a better place to do it.

We talk about having the local governments wait to get some of these ordinances passed. Some of the things they can do to business in the two years the Legislature is not meeting could have a detrimental impact on business. I do believe the language we came up with in <u>S.B. 29</u> with the counties is workable. I do not know that all the cities feel that way. We could live with some limiting language to limit their impact on commerce.

Chairman Ellison:

The language in this amendment is almost identical to <u>S.B. 29</u>. Why can you support one and not support the other?

Paul Enos:

We can support that language. We do support having that limitation on what a local government can do in commerce. This is the deal we made with the counties in <u>S.B. 29</u>. I do not have an issue with this language. I think some of the local governments may have issues with this language. However, this is a deal we arrived at after hours and hours of deliberation. As a matter of fact, I would go to sleep and dream about this bill. We want to have some kind of limitation regarding commerce. We do not want an impact that the local government thinks is local but could end up being much more global in both impact and scale.

Assemblyman Wheeler:

Like you, Mr. Enos, I am very worried about uniformity of regulation. The municipality regulations change quite a bit, and if we allow this, there will be more changes. For instance, in the Assembly Committee on Transportation, where I happen to be the Chair, we just heard a bill regarding handlebar height. Some people may wonder why the Legislature is involved in handlebar height. The fact is, the handlebar height changes from municipality to municipality. If someone has ape hangers on his motorcycle in Las Vegas, they are legal, but they are not legal in Reno. If he rides across the state, he could receive six different tickets. I am very worried about things like that. Would this bill not just increase the lack of uniform regulations across our state?

Paul Enos:

I do think that potential absolutely exists. That is why we wanted the language contained in the conceptual amendment in section 12, subsection 2(b). For the handlebar height, I do not think that would necessarily apply unless you go to

the dealers. They could do that to my trucks, whether it is a UPS or Fed Ex step van or a big rig.

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

The Las Vegas Metro Chamber of Commerce is opposed to the original language in A.B. 413. As you know, the Metro Chamber works very closely with Clark County, Las Vegas, North Las Vegas, and Henderson. We do that because our organization is heavily engaged on the local government level on behalf of our membership. As a chamber, that is one of our responsibilities. Looking at this original language and being engaged in the dialogue the last few days, we do understand the general intent of where the cities are trying to go in terms of being able to work with the delegated authority from this body. Our members can definitely see the constraints that the cities are under on the functional component. Our concerns are really about the fiscal home rule. During our conversations with the cities, their intent is not to get fiscal home rule. However, when you look at the original language of A.B. 413, it repeals Dillon's Rule, which is how our system currently functions.

We are committed to working with the cities and the Nevada League of Cities and Municipalities. We do understand that conversations are occurring. We are trying to find the proper balance. I do not know if we will be able to get there in time, but we are willing to continue the dialogue because we do see the cities as an important function of government, and we want them to be streamlined. However, there is a balance that needs to be achieved, and we are willing to work at that. In the current language, we do have to oppose it.

Ronald P. Dreher, Government Affairs Director, Peace Officers Research Association of Nevada:

From a labor perspective and from listening to the opposition, we concur with what has been stated on the fiscal aspects. Our concern is with section 9, subsection 2(b), of the amendment, where it states an incorporated city has "All other powers necessary or desirable in the conduct of city affairs, even though not granted by statute." In the labor world, we do have collective bargaining agreements, and we do have a lot of issues with local governments throughout the state. Does that provide unilateral power to the cities to do whatever they want even though we have a contract? I look at that, and then I look at section 12, subsection 1(a), where it states, "Except as expressly granted by statute or city charter, an incorporated city shall not: (a) Condition or limit its civil liability unless the condition or limitation is part of a legally executed contract or agreement between the city and another governmental entity or a private person or entity." Assuming that collective bargaining agreements would make us an entity, I would like that to be the intent for this bill as well.

As far as the rest of it goes, obviously we did testify in opposition to $\underline{S.B. 11}$. I have worked with Mr. Enos and others on this bill. I have also met with the City of Reno lobbyists to address our concerns. Those are the reasons why we are in opposition, at this point, to $\underline{A.B. 413}$.

Chairman Ellison:

I think the concerns you did address are valid. However, there could be no way they would fall under this. We can get that clarified. Are there any questions from the Committee? [There were none.] Is there anyone else wishing to testify in opposition to the bill? [There was no one.] Is there anyone wishing to testify as neutral to the bill?

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

I first want to thank Assemblyman Hambrick for bringing this bill forward last fall with the intent to give us more functional home rule. We appreciate his efforts, and we appreciate the efforts of you, Chairman Ellison, and the Committee to hear this issue and move it forward.

While <u>A.B. 413</u> does not have language that is workable for everyone, we are supportive of the conceptual amendment that Mr. Henderson outlined to get this bill going and will continue to work on it through this process. Our intent here is to be a more functional government, a government that is closest to the people, and having the ability to work on our own affairs during the interim.

Robert Ostrovsky, representing City of Las Vegas:

What we are trying to express is that this bill is a work in progress, that is why you see us here in neutral. We have had many discussions and many amendments. We are trying to keep a bill in the legislative process so we can continue to try to work it out with those opposing the bill. We understand their objections. We also understand that if you believe the best government is the government that is closest to the people, then the local governments and the cities are the ones who meet every two weeks to respond to the needs of your constituents. We are trying to find some language that satisfies everyone. We are not trying to take over the right of taxation. We are not trying to change the world. However, occasionally, this body tells us we have to set aside money for affordable housing. We try to do that but discover the charter does not permit it. We have to come back two years later to have another change. It slows the progress of what local governments can do. We would like to find an amendment where everyone opposed to this bill can come to the table and say that is what functional home rule means. We want Mr. Enos to feel comfortable that his truckers can cross local government lines and not face a situation where they have multiple rules that do not correspond to each other.

We believe there is language that will do that. We have had some issues about exactly how to word that. We are really asking the Committee, on the final day you can take action, to move this bill along. Whether it ends up on the desk downstairs or you move it without recommendation, it gives us another two weeks to try to find a resolution. We appreciate the efforts to try to do this. I have probably been in this building for a lot longer than anyone in this room. This has been a difficult issue. We are asking you to delegate some authority that you currently have to someone else. We understand how difficult that is. However, consider where the government is that is closest to the people and how much more authority you can give and what that should be. It is difficult to define, we guarantee that. If it cannot be defined, then I do not think a piece of legislation is going to make it through the process, but we hope to get there.

Warren B. Hardy II, representing City of Mesquite:

I want to associate myself with Mr. McAnallen's comments regarding Assemblyman Hambrick, Assemblyman Ellison, and the others who have tried to help us work through this. I would also like to associate myself with Mr. Ostrovsky's comments regarding how close I believe we are on this.

We agree in principle. I think all the parties agree in principle. I think the representation earlier that we have not been able to reach an agreement is probably an accurate one. We thought we did have an agreement at one point with <u>S.B. 11</u>. Unfortunately, it is coming down to the difference between what "substantially regulated" and "conflict" means. That is how close we are to a resolution on this issue. We feel like we need a little more time to work this out.

The amendment offered today is problematic for us. There are significant differences, as Mr. Grady testified to, that have to be accounted for if we are going to advance this kind of legislation. We would respectfully request some additional time to continue to work on the language.

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

The City of Reno has not taken a position on this bill. Like the rest of the panel here, we acknowledge that the amendment does not get the cities where they need to be. The language of the bill obviously creates some concerns for the business side of this discussion.

What I do know is we have spent a lot of time with the business side on this issue. Everyone seems to agree that functional home rule is a goal they want to reach. I probably have the least amount of history and context on this issue of

anyone in the discussion. However, everyone to date has said this discussion has progressed further than any other session before. I believe if the Committee could move this bill now, we can continue this conversation and hopefully get to a position where everyone is comfortable.

Chairman Ellison:

That is what I am trying to get to, and I agree with you 100 percent. I have served on a city council, a planning commission, and I was a county commissioner. I see the day-to-day operations that the cities and counties struggle with trying to get some things done. The cities or counties come back to the Legislature for small issues, which may or may not pass. The people are closest to their government in their home cities. This is a bill in progress. If this bill passes, it will go to the Senate. The Senate has said they are going to spend a lot of time on this bill. At that point, it will come back here and we are going to go to conference. We can fix this thing. We do not want to throw out the baby with the bath water. We have a chance to fix something for everyone. The day-to-day operations of local governments do not need to be heard in this body. I support Assemblyman Hambrick and what he tried to do with this bill. This may not be the right language. We are all in business. Do we want to hurt commerce? No. Are we going to give local governments taxing authority? No. We are going to give them a tool to work with.

Robert Ostrovsky:

I think you have summarized the position of all the parties. Business as well as local governments are frustrated by their inability to move the ball on a daily or weekly basis regarding problems the citizens in those jurisdictions face. This is an effort to do that. There is agreement that this is not the right language and we are not there yet. I do not know how to make the Committee comfortable with the idea that if you move it out of Committee today, we can make a decision later as to whether you want to move it out of this house. I would hope there will be a time when all these folks can come back to you and say this is the language we believe serves both local government and business in the broader community. You could then make a decision whether you can personally support that language. If we are all going to come here to fight in front of this Committee, we recognize the chances of finding a bill that will make it through the process is probably not going to happen. We have every motivation to try to find some language that we can all live with, and that can satisfy the needs of you in your elected positions in creating policy for all local governments.

Chairman Ellison:

I agree. This has to be resolved, and I think the only way we can do that is in conference or in a subcommittee. We need to do something because every year

a form of this bill is back, and every year we get no further in resolving it. I think we are closer now than we have ever been. I do not want to stop in the middle of the stream and do nothing.

Javier Trujillo, Director of Intergovernmental Relations, City of Henderson:

I would first like to thank Assemblyman Hambrick and his willingness to support us in this conversation. I would certainly ask this body to consider the comments that have been made by our sister jurisdictions. We would appreciate the opportunity to continue this conversation, at least over the next ten days, and would ask that you please consider amending the bill and provide all the parties the opportunity to continue to address all of our concerns.

Adam Mayberry, Community Relations Manager, City of Sparks:

I would like to give a shout out to Mr. Henderson, who has been a tireless advocate on behalf of all of our cities. I am also testifying neutral to this bill, and I would like to associate myself with all of the comments today. We are asking for the opportunity to be heard for some form of limited or functional home rule. This is not about fiscal home rule. This is about functional home rule.

Wes Henderson:

I am not going to repeat what everyone has already said. I think we are close. We thought we had an agreement a couple of times on this bill. Unfortunately, that agreement did not hold. We are still trying to work out the issues where the business industry is comfortable with the bill and the cities are comfortable with the language. We feel the language in this amendment may actually limit some of the authority that cities have now, and we cannot support a bill that would do that. We are certainly committed to continue working on this bill.

Jeff Fontaine, Executive Director, Nevada Association of Counties:

Like the cities, the counties are very interested in limited functional home rule. We are neutral on A.B. 413 with the amendment. However, we are very much in support of the language, specifically as it applies to counties. In fact, the language in the conceptual amendment is pretty much identical to the language in S.B. 29, which passed unanimously out of the Senate earlier this week. Again, S.B. 29 is a limited functional home rule bill. Like the others who have testified before me, I have been living and breathing home rule, not only this session but since I started with the Nevada Association of Counties in 2007, and this issue had been a subject of discussion for many years before then.

The language in <u>S.B. 29</u> and this conceptual amendment represents many hours of discussion and hard work. It represents a consensus amongst all

17 counties as well as addresses the concerns of many of the stakeholders, some of which you heard testify earlier.

There is obviously a big discussion regarding Dillon's Rule, the complex history, and its implications in counties and cities. We certainly appreciate the discussion and questions that took place today. I would like to summarize by saying we certainly look forward to presenting <u>S.B. 29</u> to this Committee as it applies to counties, and to tell you why we think that is an important measure for the counties here in the state of Nevada.

Chairman Ellison:

I think you all did a good job on <u>S.B. 29</u>. We will address these issues with the cities and counties. The cities and counties are as opposite as night and day. I still think this is a work in progress, and the only way we can fix it is to go into a conference.

Is there anyone else wishing to testify as neutral? [There was no one.] Would the presenter of the bill like to come forward for closing comments?

Assemblyman Hambrick:

It is always a joy to sit in the audience to watch your bill be filleted. It deserves a discussion, and that is partially why I brought the bill. This Committee, as all other committees in this building, gives thoughtful consideration to the matters before them. You will need to decide whether this bill deserves to survive one more week. I will certainly sit down with the individuals who have testified on this matter. I would ask this Committee to give this bill thoughtful consideration. We can come up with amendments and blend it with the Senate bill. We have had a lot of good discussion. I would be happy to answer any questions.

Chairman Ellison:

Today is the deadline for Committee passage. We need to determine if we are going to give this bill a chance to survive, or are we going to let this bill die? I would like to get a vote to determine if we are going to move it forward or not.

Assemblyman Wheeler:

Thank you for the discussion on this bill. I believe the bill has the right intentions, and for years we have been trying to get a little more autonomy. As everyone has said, even the proponents of the bill, it is not there yet. I keep hearing that it will be fixed on the Senate side. I am wondering how many things have been fixed on the Senate side. For those reasons, I will be voting no.

Chairman Ellison:

I will entertain a motion to amend and do pass this bill.

ASSEMBLYMAN MOORE MOVED TO AMEND AND DO PASS ASSEMBLY BILL 413.

ASSEMBLYMAN SILBERKRAUS SECONDED THE MOTION.

Chairman Ellison:

Is there any discussion from Committee members?

Assemblywoman Spiegel:

I would be willing to give the parties the additional time to work it out. I also have some serious concerns about this bill. I know I would not be comfortable just leaving it to the Senate to work out. If it can be worked out and there is good policy by the time it gets to the floor of our house, I would consider voting for it on the floor. I would like to reserve my right to make a decision when I see what we would be voting for on the floor.

Assemblywoman Neal:

Ditto.

Assemblyman Silberkraus:

I will reserve my right to change my vote on the floor.

Assemblywoman Dooling:

Ditto.

Assemblywoman Joiner:

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

THE MOTION PASSED. (ASSEMBLYMEN CARRILLO, JOINER, MUNFORD, STEWART, AND WHEELER VOTED NO.)

Chairman Ellison:

Gentlemen, you have one week to try to resolve the issues. I will close the hearing on A.B. 413. We will now move into the work session. I will entertain a motion to refer to the Assembly Committee on Ways and Means without recommendation Assembly Bill 104.

Assembly Bill 104: Provides for the designation and operation of charter agencies. (BDR 18-762)

ASSEMBLYMAN WHEELER MOVED TO REFER TO THE ASSEMBLY COMMITTEE ON WAYS AND MEANS WITHOUT RECOMMENDATION ASSEMBLY BILL 104.

ASSEMBLYMAN MOORE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Ellison:

I will entertain a motion to refer to the Assembly Committee on Ways and Means without recommendation <u>Assembly Bill 241</u>. [A work session document was submitted but not discussed (Exhibit D).]

Assembly Bill 241: Creates the Advisory Military and Veterans Research Committee. (BDR 36-579)

ASSEMBLYMAN WHEELER MOVED TO REFER TO THE ASSEMBLY COMMITTEE ON WAYS AND MEANS WITHOUT RECOMMENDATION ASSEMBLY BILL 241.

ASSEMBLYMAN MOORE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Ellison:

I will entertain a motion to refer to the Assembly Committee on Ways and Means without recommendation <u>Assembly Bill 345</u>. [A work session document was submitted but not discussed (<u>Exhibit E</u>).]

Assembly Bill 345: Revises provisions relating to certain government contracts. (BDR 27-398)

ASSEMBLYMAN WHEELER MOVED TO REFER TO THE ASSEMBLY COMMITTEE ON WAYS AND MEANS WITHOUT RECOMMENDATION <u>ASSEMBLY BILL 345</u>.

ASSEMBLYMAN MOORE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Ellison:

I will entertain a motion to refer to the Assembly Committee on Ways and Means without recommendation <u>Assembly Bill 410</u>. [A work session document was submitted but not discussed (Exhibit F).]

Assembly Bill 410: Revises the membership of certain boards and commissions of the Executive Department of the State Government. (BDR 28-741)

ASSEMBLYMAN WHEELER MOVED TO REFER TO THE ASSEMBLY COMMITTEE ON WAYS AND MEANS WITHOUT RECOMMENDATION ASSEMBLY BILL 410.

ASSEMBLYMAN MOORE SECONDED THE MOTION.

THE MOTION PASSED UNANIMOUSLY.

Chairman Ellison:

We will now move to Assembly Bill 280.

Assembly Bill 280: Revises provisions relating to relations between local governments and public employees. (BDR 23-858)

Jered McDonald, Committee Policy Analyst:

Assembly Bill 280 revises provisions relating to relations between local governments and public employees. The bill was heard in this Committee on April 7, 2015, and is sponsored by Assemblymen Nelson, Dickman, Jones, Wheeler, and others.

Assembly Bill 280 provides that any collective bargaining agreement entered into pursuant to Chapter 288 ("Relations Between Governments and Public Employees" of *Nevada Revised Statutes*) expires at the end of the term stated in the agreement, notwithstanding any provision of the agreement that the agreement remains in effect until a successor agreement becomes effective. [Continued to read from work session document (Exhibit G).]

We do have one conceptual amendment proposed by Assemblyman Wheeler. Essentially, the amendment would remove law enforcement collective bargaining agreements from the provisions of this bill.

Chairman Ellison:

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

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS ASSEMBLY BILL 280.

ASSEMBLYWOMAN DOOLING SECONDED THE MOTION.

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

Chairman Ellison:

I will reserve my right to change my vote on the floor. I do have a few concerns about this bill that I am hoping we can address.

Assemblyman Stewart:

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

Assemblyman Silberkraus:

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

Chairman Ellison:

Assemblyman Nelson will take the floor statement. We will move to Assembly Bill 312.

Assembly Bill 312: Revises provisions governing the Public Employees' Retirement System. (BDR 23-975)

Jered McDonald, Committee Policy Analyst:

Assembly Bill 312 revises provisions governing the Public Employees' Retirement System and was sponsored by Assemblymen Trowbridge, Moore, and others. The bill was heard in this Committee on March 30, 2015.

Assembly Bill 312 requires the Public Employees' Retirement Board to establish, by regulation, the age at which a person who becomes a member of the System on or after July 1, 2016, is eligible to retire and receive an unreduced benefit. The age must be equal to the full retirement age of the member under the Social Security Act. The bill also provides that for a person who becomes a member of the System on or after July 1, 2016, the determination of the member's average retirement compensation must be based on an average of the member's 60 consecutive months of highest compensation.

There was one amendment proposed by Assemblyman Trowbridge. Essentially, the amendment will delete section 1 of the bill revising the minimum retirement age at which the member is eligible to retire and receive an unreduced benefit. [Referred to work session document (Exhibit H).]

Chairman Ellison:

I will entertain a motion.

ASSEMBLYMAN WHEELER MOVED TO AMEND AND DO PASS ASSEMBLY BILL 312.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

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

Chairman Ellison:

I will reserve my right to change my vote on the floor.

Assemblyman Stewart:

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

Assemblyman Silberkraus:

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

Chairman Ellison:

Assemblyman Trowbridge will take the floor statement. We will move to Assembly Bill 332.

Assembly Bill 332: Makes various changes concerning government purchasing and bidding. (BDR 28-256)

Jered McDonald, Committee Policy Analyst:

The final bill on the work session today is <u>Assembly Bill 332</u>, which makes changes concerning government purchasing and bidding. This bill was sponsored by Assemblywoman Kirkpatrick and others. The bill was heard in this Committee on March 25, 2015.

Assembly Bill 332 prohibits any public body, including the State, its local governments, school districts, and any public agency thereof which sponsors or finances a public work from entering into a contract for a public work which provides that any construction materials or goods to be used on the public work be purchased or otherwise supplied by: (1) the public body; (2) the contractor who is a constituent part of the public body; or (3) a contractor who is not a constituent part of the public body acting on behalf of the public body. [Continued to read from work session document (Exhibit I).]

We did receive two amendments, which are attached to your work session documents. I will walk you through the amendments. The mock-up amendment clarifies that both express and implied contracts are subject to the bill. You will see that in section 1, subsections 3 and 4, of the amendment.

The Attorney General shall institute and prosecute the appropriate proceedings to enforce the provisions of section 1. The wording was originally "may" but has been changed to "shall" in section 2, subsection 5, of the amendment.

Under section 1, subsection 6, the amendment reduced from \$500,000 to \$250,000 the amount that may be deducted from tax distributions to a public body in section 1.

The final change I will highlight is in section 3, which clarifies that *Nevada Revised Statutes* (NRS) 341.141 to 341.148 only apply to a contract for construction work of the Nevada System of Higher Education for which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this state or from federal money.

The last piece I will highlight is Mr. Daly provided an additional amendment that replaces section 1, subsection 8, in the mock-up. You will see that new language in your work session document. It creates some exemptions in cases of emergency in section 1, subsection 8(a). Section 1, subsection 8(b), provides an exemption for construction materials purchased on the basis to protect the health, safety, or welfare of the public or other project-specific device, piece of mechanical equipment, or hardware, et cetera. Section 1, subsection 8(c), provides an exemption for construction materials or goods purchased that are specialized for the project.

Finally, there is some language that requires a public body to supply to the Department of Taxation a list of all purchased goods that were exempted under this section on an annual basis. The list must also include the amount paid for those goods.

Chairman Ellison:

There are a few things I want to get on the record for clarification. The first is about the cities and counties on purchases. Would Mr. Daly please come to the table?

Richard Daly, representing Local 169, Laborers International Union of North America:

I believe most of the discussion is around the new section 1, subsection 8. If you remember from the testimony on the bill, we were trying to target certain

purchases for construction materials that were not intended to be exempt from sales tax. The reason we created the exemptions in section 1, subsection 8, was to address the issues Clark County raised during the testimony, which included things such as light poles that are purchased on a regular basis for the safety or welfare of the public.

Section 1, subsection 8(c), is mainly for public entities such as airport authorities or water districts. They do purchase highly specialized goods with long lead times. We were not targeting those kinds of purchases.

Assemblywoman Kirkpatrick wanted the annual report to the Department of Taxation in the bill so we could anticipate what type of revenue would not be there in order to plan for it as a state in the budget. In addition, we would be able to see if any agency was trying to claim the purchase of drywall as a public welfare interest.

Chairman Ellison:

Is there any discussion?

Assemblyman Stewart:

I think this is a good bill. I appreciate the efforts of Assemblywoman Kirkpatrick and Mr. Daly to make it more functional for the cities and counties. I will be voting yes on this bill.

Chairman Ellison:

We have done a lot of work on this bill. I received a text from the university saying they are happy with the new language. I still have one concern. I will be voting yes to get this bill out of Committee, but I am going to reserve my right to change my vote on the floor because I still want to see the other amendment proposed by Ms. Walker.

Assemblyman Wheeler:

The amendment that was proposed by Ms. Walker was brought forth by me. Without that amendment, I will have to vote no.

Assemblywoman Dooling:

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

Chairman Ellison:

I will entertain a motion.

ASSEMBLYMAN CARRILLO MOVED TO AMEND AND DO PASS ASSEMBLY BILL 332.

ASSEMBLYMAN STEWART SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMAN WHEELER VOTED NO.)

Chairman Ellison:

Assemblywoman Kirkpatrick will take the floor statement. We will not be adjourning the meeting at this time. We will recess, but I would like to put a statement on the record. This has got to be the best committee in this building. We have been able to sit down and work out 90 percent of everything. You have all been fair, open, and honest. I could not ask for a better committee.

Assemblywoman Joiner:

I was under the impression we would be coming back for a work session this afternoon.

Chairman Ellison:

That is why we will be recessing the hearing in case something comes up or amendments are submitted.

Assemblywoman Joiner:

I was under the impression <u>Assembly Bill 88</u> might be on the work session. There was no opposition during the testimony.

Chairman Ellison:

We are trying to work that out now. This meeting is recessed [at 9:48 a.m.].

[The meeting was reconvened behind the bar of the Assembly at 12:09 p.m.]

Chairman Ellison:

[Roll was called. A quorum was present.] I will entertain a motion to amend and do pass <u>Assembly Bill 88</u>.

Assembly Bill 88: Makes various changes to the Charter of the City of Reno. (BDR S-478)

ASSEMBLYWOMAN SPIEGEL MOVED TO AMEND AND DO PASS WITH ALL AMENDMENTS ASSEMBLY BILL 88.

ASSEMBLYMAN FLORES SECONDED THE MOTION.

THE MOTION PASSED. (ASSEMBLYMEN WHEELER, DOOLING, SHELTON, SILBERKRAUS, AND MOORE VOTED NO.)

Chairman Ellison:

Assemblywoman Joiner will take the floor statement. This meeting is adjourned [at 12:14 p.m.].

	RESPECTFULLY SUBMITTED:	
	Lori McCleary	
	Committee Secretary	
APPROVED BY:		
	_	
Assemblyman John Ellison, Chairman		
DATE:	_	

EXHIBITS

Committee Name: Assembly Committee on Government Affairs

Date: April 10, 2015 Time of Meeting: 8:16 a.m.

Bill	Exhibit	Witness / Agency	Description
	Α		Agenda
	В		Attendance Roster
A.B. 413	С	Wes Henderson, Nevada League of Cities and Municipalities	Conceptual Amendment
A.B. 241	D	Jered McDonald, Committee Policy Analyst	Work session document
A.B. 345	Е	Jered McDonald, Committee Policy Analyst	Work session document
A.B. 410	F	Jered McDonald, Committee Policy Analyst	Work session document
A.B. 280	G	Jered McDonald, Committee Policy Analyst	Work session document
A.B. 312	Н	Jered McDonald, Committee Policy Analyst	Work session document
A.B. 332	I	Jered McDonald, Committee Policy Analyst	Work session document