

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

**Seventy-Eighth Session  
February 9, 2015**

The Senate Committee on Government Affairs was called to order by Chair Pete Goicoechea at 1:33 p.m. on Monday, February 9, 2015, in Room 2135 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. [Exhibit A](#) is the Agenda. [Exhibit B](#) is the Attendance Roster. All exhibits are available and on file in the Research Library of the Legislative Counsel Bureau.

**COMMITTEE MEMBERS PRESENT:**

Senator Pete Goicoechea, Chair  
Senator Joe P. Hardy, Vice Chair  
Senator Mark Lipparelli  
Senator David R. Parks  
Senator Kelvin Atkinson

**STAFF MEMBERS PRESENT:**

Jennifer Ruedy, Policy Analyst  
Heidi Chlarson, Counsel  
Darlene Velicki, Committee Secretary

**OTHERS PRESENT:**

Wes Henderson, Executive Director, Nevada League of Cities and Municipalities  
Jeff Fontaine, Executive Director, Nevada Association of Counties  
Andy Hafen, Mayor, City of Henderson  
Geno Martini, Mayor, City of Sparks  
Nancy Boland, Chair, Board of Commissioners, Esmeralda County  
Roy Edgington, Mayor, City of Fernley  
Douglas Ritchie, Chief Civil Deputy District Attorney, Douglas County  
Mary Walker, Carson City; Douglas County; Eureka County; Lyon County;  
Storey County  
Liane Lee, Washoe County  
Lisa Foster, City of Boulder City  
Kelly Martinez, City of Las Vegas

Senate Committee on Government Affairs  
February 9, 2015  
Page 2

John Fudenberg, Clark County  
Warren Hardy II, City of Mesquite  
Paul Enos, CEO, Nevada Trucking Association  
Priscilla Maloney, American Federation of State, County and Municipal  
Employees Retiree Chapter Local 4041, AFL-CIO  
Ray Bacon, Nevada Manufacturers Association  
Lea Tauchen, Retail Association of Nevada  
Ronald Dreher, Peace Officers Research Association of Nevada  
Jay Parmer, Builders Association of Northern Nevada  
Gregory Peek, Builders Association of Northern Nevada  
Carole Vilardo, Nevada Taxpayers Association  
Pat Sanderson, Nevada Alliance for Retired Americans  
Tom Collins, Board of Commissioners, Clark County  
Douglas Johnson, Chair, Board of Commissioners, Douglas County; Nevada  
Association of Counties  
Larry Burtness, County Fiscal Officers Association  
Tammi Davis, Association of County Treasurers of Nevada  
Robert Roshak, Executive Director, Nevada Sheriffs' and Chiefs' Association

Kristin Erickson, Nevada District Attorneys Association

**Chair Goicoechea:**

The meeting will come to order. We will be hearing Senate Bill (S.B.) 11 and S.B. 30. I will present S.B. 11.

**SENATE BILL 11**: Grants power to local governments to perform certain acts or duties, which are not prohibited or limited by statute. (BDR 20-284)

**Senator Pete Goicoechea (Senatorial District No. 19):**

Senate Bill 11 is a request bill. This is not a new issue. I started dealing with Dillon's Rule in 1986 as a county commissioner. It came into effect in 1868, so we have had over 140 years of its use. It is problematic in the rural areas to come to the Legislature for everything you do. This legislative body set up what a city or county could or could not do. Since we have covered almost everything in statute, this is more of a philosophical question. This is about functional home rule, not necessarily fiscal. Many might be concerned about the ability to impose a tax or fees. If you look at section 7, subsections 4 and 5 state that county commissioners can impose a tax if granted by statute. Concerns about imposing a fee greater than the cost of the actual service are

somewhat justified. For instance, if an entity offers a service and charges \$45 an hour for the people providing the service, that may exceed the cost of providing the service. Places in the bill may be tightened up. Nothing in this bill changes any of the statutes. Actions that require statutory permission to execute a governmental function stay in place. It is not the intent of the bill to institute home rule.

Text of repealed sections is noted on the back of the bill. *Nevada Revised Statute* (NRS) 266.010 allows home rule “to the people of any city incorporated under the provisions of this chapter.” Technically, there is a conflict between that repealed section—and I will defer to legal counsel—and some other statutes in place. Repeal of the two texts was a cleanup. Whereas the first sections on S.B. 11 deal with counties, succeeding sections deal with cities.

**Senator Atkinson:**

I am unclear on section 5. That states, “A board of county commissioners may exercise any power it has to the extent that the power is not expressly denied by the Constitution of the State of Nevada ... or granted to another entity. Does this mean that the power may be exercised if not prohibited?”

**Senator Goicoechea:**

No, not necessarily. Since functioning under Dillon’s Rule, we have covered most questions of this nature. The bill stipulates that the power is not denied by statute, Nevada or the U.S. Constitutions and not granted to another entity. State agencies are in charge of most functions. Nothing in this bill allows counties or cities to assume powers already granted to State agencies.

**Senator Atkinson:**

If just smaller counties have this issue, why make this statewide mandate?

**Senator Goicoechea:**

I agree. The issues of home rule are compounded in the smaller, rural counties in contrast to urban areas like Washoe and Clark Counties. It would be difficult to give 15 smaller counties home rule and maintain Dillon’s Rule in Washoe and Clark Counties. It would not be good government. In the rural counties, commissioners are much closer to their constituents who ask for a remedy to a problem, but commissioners must wait 2 years until the Legislature meets. That is the problem.

**Senator Atkinson:**

We have put population caps into effect in the past. Are the smaller counties asking for this, or is this what we want to do as a legislative body?

**Senator Goicoechea:**

Most of the counties, even the larger urban ones, are supportive of this concept of home rule for the ability to govern better.

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

This bill would provide greater autonomy for local governments, allowing them to become more efficient and respond more quickly to changing situations. As I noted in my testimony ([Exhibit C](#)), Nevada is a Dillon's Rule state. John Dillon was an Iowa Supreme Court Justice in the 1860s. His opinion, issued in 1868, stated that local governments may only take actions specifically granted by the legislature. We believe that Dillon's Rule places local governments in an upside-down position when managing daily operations. Senate Bill 11 would turn this situation right side up by allowing local governments to take actions not prohibited or limited by statute.

Senate Bill 11 neither eliminates nor weakens any of the hundreds of statutes that control the operations of local governments. Passage does not lessen the duty or the right of the Legislature to provide oversight of local governments or take away the ability of the Legislature to limit or prohibit the manner in which local governments function. This bill is Part 1 of a two-part process to give local governments more autonomy.

Senate Bill No. 66 of the 77th Session is an example of part of the process. The passage of that bill amended NRS 244 to allow counties more autonomy in the use of county equipment. Similar bills need to be brought forward in future sessions to remove some of the more restrictive measures in many statutes that regulate local governments. Passing S.B. 11 is an important first step toward more effective, efficient and responsive local governments in Nevada. One problem with Dillon's Rule is that a city would not know of an issue until it attempts to take an action, and the city attorney then informs the city that it may not proceed. I respectfully ask for your support.

**Jeff Fontaine (Executive Director, Nevada Association of Counties):**

I am here to support S.B. 11. The Nevada Association of Counties (NACO) has been a proponent of home rule for many years, working closely with the Legislature and the League of Cities to develop a bill that achieves the right balance to give local governments additional authority while maintaining appropriate legislative oversight.

We worked with the Legislative Commission's Committee to Study the Powers Delegated to Local Governments in the 2010 Interim. We carefully crafted S.B. No. 385 of the 76th Session—the precursor to this bill—which was the functional home rule bill introduced in the 2011 Session. We came back in 2013 to submit S.B. No. 2 of the 77th Session, which like S.B. No. 385 of the 76th Session—the same bill. We fell short in the Assembly even though it was passed in the Senate. We hope this time will be the charm for our functional home rule attempts.

We have been discussing home rule in Nevada in the Legislature since the 1950s. There have been study committees, bills to abolish Dillon's Rule, bills to give local governments home rule one piece at a time, home rule bills that applied to certain entities, and attempts to rebrand home rule to include terms like "additional local government authority" plus, my favorite, "the opportunity for local government modernization." It may have made sense in the past, but we are a different place now. Our counties are diverse. What works in Clark County with a population of over 2 million may not work in Esmeralda County with a population of less than 1,000.

Functional home rule gives our counties the flexibility to address their unique needs. Functional home rule would foster innovation and allow counties to continue to improve the delivery of services. It would still allow the Legislature to enact new laws that limit local governments. If our counties need to deliver services or provide some innovation, they must wait 18 months to 2 years to come before this body to obtain the authority.

Many examples exist of functional home rule bills that the Legislature has passed in previous sessions: A.B. No. 25 of the 77th Session deals with a special assessment for the cost abatement of certain conditions and nuisances; A.B. No. 212 of the 77th Session prohibits the possession of portable telecommunication devices by prisoners in local detention facilities; A.B. No. 44

of the 77th Session deals with the storage of trash and recycling containers in planned unit developments.

I understand there are concerns about the language addressing fees. When this bill was originally drafted in 2011, the intent was to give assurances that fees would not be raised by local governments as a result of functional home rule. We are happy to help tighten that language. Senate Bill 11 will give counties and cities the ability to respond to the needs of their citizens in the most effective and efficient manner possible.

**Senator Atkinson:**

I am concerned that the term “functional” is not reflected in section 7, and I would like an explanation. In the new language, we are giving the authority to impose a tax, a service charge or a user fee greater than the actual cost of the service. Does this mean governments must do this in order to function? Is this linked to the economy downturn such that governments are allowed to ask for fees or taxes? How broadly can the taxation be implemented? Senate Bill 11 is not clear.

**Mr. Fontaine:**

Fiscal home rule is one of the four components. The language in section 7 that you refer to reads, “Except as expressly granted by statute, a board of county commissioners shall not,” take those actions that you enumerated. Those things that you just mentioned would have to be in statute or granted later by the Legislature.

**Heidi Chlarson (Legal Counsel):**

This bill affects three chapters. Some provisions relate to counties, and some relate to cities incorporated pursuant to general law or special charter. Pieces of the bill are repetitive so relevant chapters clearly cover what powers this bill grants cities and counties. Whereas other sections relate to cities, section 5 relates to counties. It states:

A board of county commissioners may exercise any power it has to the extent that the power is not expressly: denied by the *Constitution of the State of Nevada*; denied by the *Constitution of the United States*; denied by the laws of the State of Nevada; or granted to another entity.

That is a general grant of authority, but it is next limited by sections 6 and 7. Section 6 provides that if there is a constitutional or statutory provision requiring a specific manner for exercising authority, then county commissioners must do so in that manner; therefore, it does not give counties or cities a way to circumvent any existing statutory or constitutional requirements. Section 7 says that unless there is an express grant of authority by statute, county commissioners shall not do any of the things listed in subsections 1 through 7, which include imposing a tax, regulating conduct that is regulated by a state agency or conducting an election and so on. One has to read the bill as a whole because there is a general statement, but it is further limited by other sections.

**Senator Hardy:**

Do I understand correctly that a county or a city, regardless of the way it is organized, shall not impose a fee or tax greater than the actual cost? Is that county or city able to impose a new fee?

**Ms. Charlson:**

If statute grants city or county authorities to charge fees and that statute limits the fees, then that statute applies. With regard to fees not specifically authorized by statute, Senate Bill 11 allows them to impose service charges or fees not greater than the actual cost of providing the service. The bill is intended to give authority to charge new fees; counties and cities are just not allowed to charge more than the actual cost.

**Senator Atkinson:**

I interpret the bill the same way Senator Hardy does. It seems that cities or counties may still impose different fees, ones not governed by this already. Who assesses if the fee is greater than the actual cost of providing the service?

**Senator Goicoechea:**

Would you feel more comfortable if the bill language said, impose a service charge or fee, the same as it says "shall not"?

**Senator Atkinson:**

That language is better than what is in the bill.

**Senator Hardy:**

For clarity, section 7, subsection 5 could impose a new charge or user fee, and end it there. Defining what is an actual cost is problematic.

**Senator Goicoechea:**

The right to impose those fees by statute is legitimate. This is functional, not fiscal.

**Andy Hafen (Mayor, City of Henderson):**

I would like to recognize my colleague, Councilwoman Gerri Schroder. We support the additional autonomy to provide the services that our businesses and our residents need. This bill, as noted in my testimony ([Exhibit D](#)), resulted from an examination of home rule by the 2010 Interim Technical Advisory Committee for Intergovernmental Relations created via the passage of S.B. No. 264 of the 75th Session. The issue of functional home rule has been well-researched, and discussed at length during the last two Legislative Sessions as well as in the interims.

The passage of S.B. 11 would be good for local government entities because it would allow us to more freely manage our affairs. The more perfunctory operations of running a city would be conducted and, therefore, lessen the burden on the Legislature. The bill does nothing to remove the Legislature's authority to enact laws that control how local governments operate in any policy area. The passage of S.B. 11 would provide the requisite authority needed by local governments to become even more efficient and respond to emergent situations in a timely manner. I urge the Committee to support this measure. I have our city manager present and we stand for questions.

**Geno Martini (Mayor, City of Sparks):**

I agree with Mr. Hafen. We are not looking to raise fees, just to make more money for our cities. We know what we need to do. We answer to our citizens and will not impose any burden on them. We are not trying to take away any power from the Legislature. We need more autonomy to react to situations quickly without having to come to you with such things as our charters. If I want to change the rules of a homeowners' association regarding how the residents put their garbage cans outside, it is difficult to understand why I have to come to the Legislature for permission. We treat our citizens with the respect they deserve and take care of the daily operation of our city the best that we can.



**Senator Hardy:**

In section 7, subsection 5, do you have any thoughts about placing a period after “Impose a service charge or user fee ...” instead of continuing the sentence, “... greater than the actual cost of providing the service”?

**Nancy Boland (Chair, Board of Commissioners, Esmeralda County):**

I have represented District 2 for 11 years. I served on the Advisory Committee with Mayor Hafen. I support S.B. 11 for several reasons. My testimony ([Exhibit E](#)) first notes that it would allow county government to address unanticipated practical problems within a jurisdiction in a timely manner. These are not specifically treated in NRS.

Rural issues can be very different from those in a metropolitan area. For instance, we often receive requests for county services from private parties to support events such as off-road races conducted on county roads. We do not have independent contractors in our area who could grade the access to public roads, water roadways to keep down dust and conduct additional maintenance needed after an event. This situation would not likely happen in Washoe or Clark Counties, which have their own problems associated with large populations and a high level of building activity.

The second reason I support this bill is that it would reduce bill draft requests from counties seeking to address their specific needs. Third, the bill would foster a more consistent and uniform interpretation of what a county government is functionally allowed to do. While I have served in this position, we have had six district attorneys, each of whom had differing opinions about the legality of proposed county operations. A legal opinion on the same issue may be interpreted differently from county to county. Some district attorneys looked at the *Nevada Revised Statutes* narrowly for only powers expressly granted by Dillon’s Rule and were reluctant to form a unique opinion. They were hesitant to research whether the action is necessarily or fairly implied or incident within powers expressly granted, or whether the power is essential to the accomplishment or declared purposes of local government.

After the Federal Land Policy and Management Act of 1976 ended the ability to patent land, residents of Gold Point—founded in 1908—learned that titles had not been properly transferred from the federal government to them as private parties. This is a real-life example of an issue we would like to resolve locally.

Property owners tried every possible avenue to obtain proper titles and remedy the trespass situation and color of denied title claims. We were rebuffed by the Bureau of Land Management (BLM) until last year when the BLM policy changed. The Bureau announced it would prefer to sell the Gold Point disposal area to Esmeralda County because surveys would not be required. The area would be sold as a block for the County to reconvey to the private parties.

Although it was objectionable to purchase land that town residents and their predecessors already purchased, federal legislation was the proper fix and a solution was available. I was sure that the County could fiscally handle this transaction. A legal opinion was requested, and research ensued to establish the County's power to buy federal land. This power is not expressly granted in NRS 244.277 titled "Acceptance of grant of right-of-way, permit, lease or patent over certain federal lands" wherein the board of county commissioners may apply for and accept:

Grants of rights-of-way, permits, leases and patents and subsequent renewals of grants of rights-of-way, permits, leases and patents over, upon, under or through any land or interest in land owned by the United States and administered by the Secretary of the Interior through the Bureau of Land Management and by the Secretary of Agriculture with respect to lands within the National Forest System, pursuant to Title V of the Federal Land Policy and Management Act of 1976, 43 U.S.C. §§ 1761-1771, the Recreation and Public Purposes Act, 43 U.S.C. §§ 869-869-4, and the Southern Nevada Public Land Management Act of 1998, Public Law 105-263.

I further referenced NRS 244.2825 titled, "Transfer or sale of real property which was part of original mining townsite and which was acquired by county directly from Federal Government." This was included in case of federal legislation. I noted the word "acquired" which by definition includes purchase. This question may arise in counties other than Clark County as well because the only act cited that would allow such a transaction is the Southern Nevada Public Land Management Act. Some federal legislators suggest creating legislation that would allow counties to exchange Payments in Lieu of Taxes (PILT) for physical land.

I have encountered many instances in which the *Nevada Revised Statutes* are overly specific, as in this case, which leads to amendments that often include additional definitions in nuisance portions to comply with new federal legislation. Federal and state statutes often conflict. State Legislators would use their time wisely to resolve conflicts in our laws so counties may take practical actions like buying land from the federal government. Existing law will allow this transfer to owners for the amount they have paid. This would fix a 30-year-old problem and increase the property tax to \$100 per acre instead of the \$0.06 per acre in PILT Esmeralda County receives.

**Senator Goicoechea:**

Please understand that this bill does not change that. The statutes may be confusing, but if they state the county may not act, then you may not.

**Ms. Boland:**

The statute specifically states it is allowed only if specified under those bills. Therefore, we may not act. I interpret that to mean that if the action is not disallowed, then we may proceed.

**Senator Goicoechea:**

I am concerned that some of these counties will adopt your perception. If it is not allowed in statute, then it cannot happen; that must be brought forward very clearly.

**Ms. Boland:**

We would require specific authorization in NRS to buy this land. If the word "certain" and federal code references were struck from NRS 244.277, then the County would be authorized to proceed.

**Roy Edgington (Mayor, City of Fernley)**

The City of Fernley endorses Senate Bill 11.

**Douglas Ritchie (Chief Civil Deputy District Attorney, Douglas County):**

I understand the frustration that local elected officials have with their city councils and district attorneys. If an action is specifically prohibited, then the issue is settled; however, if it is not specifically prohibited, legal counsel must evaluate if those enumerated powers may be expanded sufficiently to address a compelling local need. The issue is local responsiveness to concerns of citizens. Senate Bill 11 would obviate the need for legal counsel to attempt to put a

square peg into a round hole. This bill would allow local governments to respond to their citizens. I support the passage of S.B. 11 and agree with previous arguments.

**Mary Walker (Carson City; Douglas County; Eureka County; Lyon County; Storey County):**

Carson City, Douglas, Eureka, Lyon and Storey Counties all support functional home rule. We would appreciate your support of this bill.

**Liane Lee (Washoe County):**

Washoe County expresses support for S.B. 11 for the reasons stated.

**Lisa Foster (City of Boulder City):**

Boulder City supports this bill.

**Kelly Martinez (City of Las Vegas):**

The City of Las Vegas supports this bill.

**John Fudenberg (Clark County):**

We support the bill.

**Warren Hardy II (City of Mesquite):**

There are valid reasons for this type of legislation; there are also valid reasons for the Legislature to have global control on some issues. I call this bill a commonsense home rule because it allows local government to bring the decisions of government close to people while controlling global policy decisions. The City of Mesquite supports this bill.

**Paul Enos (CEO, Nevada Trucking Association):**

We oppose S.B. 11. We are engaged in interstate commerce; therefore, uniformity is important to us nationally and even internationally. We cross multiple jurisdictions on a daily basis. For example, Boulder City planned to ban trucks from transiting the city when the Mike O'Callaghan-Pat Tillman Memorial Bridge opened. Since it was a federal bridge, the city was unable to institute the ban; however, we were concerned about the attempt. We were able to insert a provision into State law that said no jurisdiction would be allowed to petition the federal government to ban any class of vehicles on certain roads.

I appreciate the notion that a fee must not be greater than the cost of the service. For instance, we have experienced difficult problems in Clark County when moving overdimensional loads, such as power transformers or windmills, that often require escorts. A case in point: A truck carrying an overdimensional load escorted by two highway patrolmen was beset with an unexpected, additional Clark County employee escort. Since the truck already had a highway patrol escort, this was a redundant effort. A bill of \$986 was presented; the fee for transporting the load was only \$900.

Since our industry operates in multiple jurisdictions, I appreciate this central forum in which to address our issues instead of being required to petition many smaller governments. I am concerned that this bill creates ambiguity, particularly in section 7 and section 13, subsection 6, where it states a local entity cannot "regulate conduct that is regulated by a state agency." I would like to work with you to address some of the ambiguities.

**Senator Goicoechea:**

Your example illustrated what has happened in the past despite functioning under Dillon's Rule. The bill addresses lesser issues that local governments must address. You may still come to the Legislature with those large issues.

**Senator Atkinson:**

The issue may grow larger in the interim. Since we meet every other year, at what point will these issues be addressed?

**Senator Goicoechea:**

I agree, but it is not any different from what occurs today. If a county or city goes rogue, you come back to this body, even if we have to wait 2 years. This bill addresses the smaller issues in functional, not fiscal, home rule.

**Senator Lipparelli:**

Mr. Enos, is your issue that any industry operating intercounty would likely rush back to the Legislature asking for uniformity and a single standard?

**Mr. Enos:**

Yes, that could be the case. The trucking industry routinely operates across blurred jurisdictions. It is difficult for a driver to know what entity controls the territory being transited. This may also be an issue for other industries.

**Priscilla Maloney (American Federation of State, County and Municipal Employees Retiree Chapter, Local 4041, AFL-CIO):**

Our concern is known in constitutional law as a balkanization of criminal and civil systems across political entities. Nevada has a unique situation wherein 80 percent of the folks live in two highly urbanized areas with the rurals spread out over many counties. We are opposed to the broadness of this bill—specifically sections 5 and 6—illustrated by the section 5 passage, “ ... may exercise any power to the extent ... .” It seems that cities and counties exercise power first, and then wait for litigation to determine if they have gone too far. We do not just represent State employees; we have three bargaining units: the City of West Wendover, the Regional Transportation Commission in Washoe County; and one representing the administrative employees in Storey County. These are different places with commensurate challenges.

**Ray Bacon (Nevada Manufacturers Association):**

I agree with Mr. Enos’s comments. We intend to look out for what our residents want and change the rules accordingly. That means a significant conflict between the business interests in those counties and cities versus those residents. For instance, transportation routes located next to industrial parks are changed to prohibit truck traffic and senior citizens’ mobile home parks are placed adjacent to industrial-zoned areas. What you are proposing may make such situations worse.

Storey County has gone from a place where most people could not find on a map to one of the hottest locations in the Country. The County does not have the risk of a residential encroachment, which from a business standpoint, is a huge level of security and change.

Typically, when a business is acquired in this state, the fundamental site does not change, but the business license fee triples. The majority of Nevada manufacturers export their wares nationwide and internationally. Therefore, transportation is a critical issue.

**Lea Tauchen (Retail Association of Nevada):**

We oppose this bill. The concerns of the Retail Association echo those of the other sectors of the business community. Our members operate businesses in multiple jurisdictions throughout the State. This measure will impact commerce by creating confusion as businesses attempt to comply with various bans or mandates that may be enacted. There may also be confusion for consumers who may have to alter shopping habits based on the differing rules from county to county. There may be potential negative consequences.

**Senator Atkinson:**

I want the record to show that this is probably the first meeting when I agree with both Mr. Enos and Mr. Bacon on the same bill.

**Ronald Dreher (Peace Officers Research Association of Nevada):**

We are opposed to S. B. 11. It is difficult to determine what functional capacity means and the difference between functional and fiscal capacity. Every Legislative Session, many bills related to city-county charters and homeowner's association bills are introduced. According to this bill, can some county commissioners change their charters unilaterally? Are some charters constitutionally protected? Would this bill allow city councils to unilaterally change home rule for city charters and homeowner's associations? Could these unilateral changes occur without requirement coming back to this body?

**Senator Hardy:**

Do you have an amendment to offer?

**Mr. Dreher:**

I would like to be involved in this process because the effects will trickle down to labor. I agree with Priscilla Maloney that the bill has broad application, so I would like to see it narrowed to address our specific concerns.

**Senator Goicoechea:**

Can you do it today? If you cannot do it today, it will not be legal with the passage of this bill. That is the simple answer.

**Mr. Dreher:**

That is the assurance for me.

**Jay Parmer (Builders Association of Northern Nevada):**

I would like to introduce Gregory Peek, Director of the National Association of Home Builders and past president of the Builders Association of Northern Nevada for which he chairs the Legislative Committee. Most important, he is a developer and builder of multifamily housing throughout northern Nevada.

**Gregory Peek (Builders Association of Northern Nevada):**

The development community believes that Dillon's Rule provides meaningful checks and balances. We have a long history of working with local governments to arrive at solutions to our problems. Some examples are the flood control issue of 4 years ago; the extension of tentative maps; issues with the regional governing board in Reno; and our school funding efforts. All these issues were hatched and discussed locally. We then bring issues such as these to the Legislature. At that point, the ideas become refined and even better. We view this process as good government since you provide another set of eyes. The reason Nevada ranks highly for a good business climate is because we have consistency across the State; we have somewhat restrained government in large part because of Dillon's Rule.

I agree with the Chair that much of the functionality that cities and counties need is covered in NRS. I appreciate the tax exclusion, but the bill still includes user fees. We are also concerned that unintentional consequences will result in the expansion of government. In business, time is money. Expansion of government oftentimes means an increased and expensive bureaucracy. I also have some specific concerns relating to impact fees.

*Nevada Revised Statute 278B* specifically defines a fire station, a police station and a street project. Will this bill allow local jurisdictions to expand or narrow the NRS definitions? We would like to understand the need for the bill and the intent of the supporters. What do local governments specifically not have, given that NRS broadly defines city and county needs? We all benefit from an efficient, effective, predictable and limited local government.

**Senator Hardy:**

I point out that we are discussing section 7—and like city-applicable sections—that says, “a board of county commissioners shall not ... impose a service charge or user fee.” I reiterate the “shall not.”



**Mr. Peek:**

I am concerned about the creation of new programs which would create new user fees. In the development community, we are particularly sensitive to that.

**Senator Hardy:**

I read again, "shall not impose a service charge or user fee."

**Mr. Peek:**

The copy I have says, "shall not impose a ... user fee greater than the actual cost of providing the services." If I have a different copy, I apologize.

**Senator Hardy:**

We have been putting a period after "user fee" to make clear that local governments may not impose user fees. We put that period in with agreement about an hour ago.

**Senator Atkinson:**

I agree about the period, but I am not clear that we addressed the word "new." I am still not clear whether local governments may impose a new fee. I want to make sure that this item is addressed as the bill proceeds.

**Carole Vilardo (Nevada Taxpayers Association):**

The Nevada Taxpayers Association has supported parts of functional home rule. Bills came here because the City of Las Vegas by charter could do something that Clark County could not do. We have the same issue in northern Nevada. We support functional but never fiscal nor structural home rule. With the discussed changes and some modifications—whether in reporting, narrowing the parameters or adding more "cannot do" phrases—we need to make the move now. The economy and technology are different, and government must respond. In regard to transportation, I agree with Mr. Enos and the comments of Mr. Bacon. I am in favor of consistency, but neither all building codes nor business licenses are the same. If necessary, perhaps the business impact fees extend to a commercial application. We want to get to the beginning of the process to allow some home rule in this functional arena because it is overdue.

**Pat Sanderson (Nevada Alliance for Retired Americans):**

I am neutral because Senate Bill 11 is complicated even though you have tried to make it simple. I was born and raised in a rural area and know firsthand that problems must be solved in place. Every 4 years in those rural counties, we have new district attorneys and county commissioners, and then we have a new Legislature every 2 years.

We have a constant, competent Legislative Counsel Bureau (LCB) staff. They help us through these problems, explaining the legal workings. I am afraid that a district attorney in one county will disagree with one in another county. Then 2 years later, the disagreement will yield more work for us than we have saved. In my small county I want to be able to say that this is how we will do things. I am for you 100 percent but hope that we do it in a safe way that does not hurt us in the long run. Everyone should think this through, take the issue to the LCB and learn the alternatives. We have competent people here to predict what may happen were this bill to become law.

**Tom Collins (Board of Commissioners, Clark County):**

I said for years that most folks could not handle home rule. I mean that today for some entities. If we look back under Dillon's Rule, the Legislature has had to bail out White Pine County, Ely, Lund, Shurz, Reno, Las Vegas, North Las Vegas and so many more over the years.

Even though Sparks and Reno are adjacent, as are Las Vegas, North Las Vegas and Henderson, I do not see too many problems on the transportation side. I remember getting the law changed 8 years ago so that the State determines the oversized, heavy-load routes rather than local governments. I will give you an example from the home-builder development community. For a small 12-acre project in Clark County, fees totaled \$5,000-plus. When forced to annex into the neighboring city, the fees went to over \$12,000 for the same project.

We have had those problems under Dillon's Rule. For instance, the speed limits are different between Las Vegas and North Las Vegas on the major routes. We are spending hundreds of millions of dollars on projects to improve the transportation industry, including Interstate 11. The trucking industry is still concerned about different rules between cities and counties. With a residential permit, the cities require a two-car garage and a block wall, whereas Clark County does not require that under Dillon's Rule. Therefore, the building

codes are different throughout the County. As an example, the City of Henderson requires sprinklers in all residences.

The home rule aspects that Senator Goicoechea recommends with the proposed amendment are a tremendous opportunity—not just for the small counties—for Clark County, with 2 million people, to be a lot more progressive and user-friendly for its constituents in all five of its municipal islands.

**Senator Hardy:**

We will close the hearing on S.B. 11 and encourage everybody to work with the sponsor to determine what you can do.

**Chair Goicoechea:**

Let us tighten up Senate Bill 11 to make it palatable enough for everyone to sign on. The next bill is Senate Bill 30.

**SENATE BILL 30:** Authorizes a board of county commissioners to withhold longevity pay for certain elected county officers under certain circumstances. (BDR 20-468)

**Mr. Fontaine:**

The NACO submitted an amendment ([Exhibit F](#)) to S.B. 30. As amended, S.B. 30 would allow any county-elected official who is entitled to receive longevity pay in any fiscal year to voluntarily forgo all or a portion of that longevity pay for the fiscal year. Under statute, these individuals are district attorneys, sheriffs, clerks, assessors, recorders, treasurers, public administrators and commissioners. A number of counties have already eliminated longevity pay, but since it is required in NRS 245.044 for county-elected officials, we want to clarify that they may forgo that pay.

**Ms. Charlson:**

The proposed amendment would allow any county-elected official to voluntarily forgo any portion or all of his or her longevity pay. Senate Bill 30, as introduced, authorizes a board of county commissioners by two-thirds vote to adopt a resolution withholding longevity pay for the fiscal year. The difference between the bill as introduced and the bill with the proposed amendment is that the amended bill eliminates the necessity for a board of county commissioners to approve the withholding. Instead, it gives the authority to the elected county officers to forgo any or all of their longevity pay.

**Senator Hardy:**

Should they forgo their longevity pay, would this affect their Public Employees' Retirement System (PERS) calculation?

**Mr. Fontaine:**

I do not know, but we will get you an answer.

**Mr. Collins:**

My one-line amendment ([Exhibit G](#)) comes out of a sample of one of our Clark County collective bargaining agreements. It says that any employee "hired on or after July 1, 2012, shall not be eligible for longevity pay." This new-hire provision has been my intention for the last 8 years. Clark County Commissioners receive a fair wage and longevity pay, based on the legislative rate of 2 percent. Most local governments throughout the State have eliminated longevity pay in their collective bargaining agreements. I do not want to take a single penny from any sitting county official. I suggest deleting lines 3 through 36 on page 2 of the bill and eliminating the reference allowing county officers to voluntarily forgo the additional longevity pay. I propose an amendment that states, "Anyone elected to the county commission after the 2016 election, would not be eligible for longevity pay. The exception would be those currently in office." In 12 years, they all would lose the pay because of term limits. Collective bargaining agreements work this way around the state by eventually phasing out longevity pay for new employees. Clark County Commissioners voted away longevity pay for their employees, so it is hypocritical for commissioners to treat themselves differently.

**Senator Atkinson:**

The one line I see does not explain the amendment as you have explained it. It reads, "Employees hired on or after July 1, 2012, shall not be eligible for longevity pay." The submission further states, "That is a sample of a line from a Clark County employee contract." Are you talking about all county employees or are you only talking about county commissioners?

**Mr. Collins:**

That one line is from our collective bargaining agreements. I have shared with other county commissioners around the State that if you take the longevity pay away from your employees, you should take it away from yourselves. This is the first time the longevity issue has been part of a bill draft and reviewed in a legislative committee. To answer your question, this is only to remove longevity pay from county commissioners because they vote on the contracts and collective bargaining agreements; if they have taken it away from their employees, then they should not be entitled to it themselves. This only affects new employees hired after 2012. Any incumbent county commissioner would continue through to his or her term limit with longevity pay. Only those newly elected would not be entitled to longevity pay. You can get rid of this hypocrisy, since you control our wages.

**Senator Atkinson:**

If we are just talking about county commissioners, the language should specify this.

**Mr. Collins:**

I just used the verbiage that you see as a simple example. It only refers to anyone elected.

**Senator Atkinson:**

Written this way, it more broadly applies beyond county commissioners.

**Chair Goicoechea:**

Are you referring just to county commissioners or to all elected officials?

**Mr. Collins:**

I am referring to only county commissioners, as they are the ones who voted to take longevity pay away from their employees. Here is the chance for the Legislature to put the elected county commissioners on the same playing field as their future employees. I do not include any other employees.

**Chair Goicoechea:**

Do you feel comfortable drafting language that says that there will be no longevity pay for county commissioners only, or do you want us to draft the language here? I see your intent.

**Senator Lipparelli:**

Would it be the perpetual right of an elected official who may be reelected to continue to claim longevity pay? May such pay only be claimed until the next election?

**Mr. Collins:**

Not everyone is term-limited. Perpetual incumbency remains until the election that removes them.

**Senator Lipparelli:**

Is your point that longevity pay continues, presuming that the individual continues to be reelected?

**Mr. Collins:**

Yes.

**Chair Goicoechea:**

Do you agree with the amendment offered by NACO which says local officials may choose to forgo longevity pay?

**Mr. Collins:**

Yes, that part may stay as long as it is clear that longevity pay will eventually go away.

**Chair Goicoechea:**

It would not go away for some like an assessor or a treasurer. These officials would just have the opportunity to say "no" in good faith, for instance, if the budget was tight. They may do that with the amendment proposed by NACO.

**Mr. Collins:**

Yes, add that to the amendment that I explained.

**Senator Hardy:**

The voluntary aspect would allow you to feel some comfort with the current county commissioners who would have the option to forgo their longevity pay.

**Doug Johnson (Chair, Board of Commissioners, Douglas County; Nevada Association of Counties):**

I reiterate that the amendment we proposed changes the title of the bill. It allows every elected official to voluntarily forgo his or her longevity pay. This came about because of the financial crisis. In certain counties like my own, we commissioners decided to take 5 percent pay cuts, but then we were forced to take our 2 percent longevity pay. It looked hypocritical. We wanted the ability to forgo the longevity pay. I do, however, want to find out how this option intersects with PERS. I assume that it does make a difference.

**Chair Goicoechea:**

I know of several county commissioners who kept their salaries at the lower level just to protect their budgets, so I agree with your view. Do you agree with the amendment proposed by Mr. Collins?

**Mr. Ritchie:**

The NACO Board has not vetted the proposed amendment from Mr. Collins.

**Senator Atkinson:**

The PERS system calculates your highest 36-month average. Therefore, this would probably affect your calculation. We will have to clarify this officially.

**Larry Burtness (County Fiscal Officers Association):**

The Association comprises county clerks, county treasurers, county recorders and county auditors. We support S.B. 30 as amended by NACO. However, I cannot offer any official response to Commissioner Collins' proposed amendment.

**Mr. Dreher:**

We stand in support of S.B. 30 in the original language and the proposed amendment offered by NACO. In my collective bargaining experience, we have faced the issue about which Commissioner Collins spoke. It is hypocritical to claim longevity pay when your employees are not afforded it. With that in mind, we support the ability for incumbents to waive the claim to longevity pay.

**Chair Goicoechea:**

Do you want to delete the language that allows a board of county commissioners to elect to continue or discontinue longevity pay with a two-thirds vote?

**Mr. Collins:**

The pay cut that Clark County took twice was not by unanimous vote. It is onerous to require a two-thirds or three-fourths vote approval. I am in favor of letting the county suffer through until term limits play out. Then neither county commissioners nor new hires will receive longevity pay. It creates a fair playing field. I agree with adding NACO's proposed amendment to allow voluntary surrender of longevity pay to my proposed amendment.

**Chair Goicoechea:**

I realize it is an issue in Clark County. I am looking at all 17 counties, most of which also cut longevity pay.

**Tammi Davis (Association of County Treasurers of Nevada):**

We support S.B. 30 with the proposed amendment by NACO. We recognize that in times of financial hardship, it is important that we have tools to bring about a solution.

**Robert Roshak (Executive Director, Nevada Sheriffs' and Chiefs' Association):**

We support S.B. 30 with the NACO proposed amendment. We must hold a decision on any future amendments.

**Kristin Erickson (Nevada District Attorneys Association):**

We support S.B. 30 with the amendment proposed by NACO.

**Mr. Collins:**

Collective bargaining groups do not have the opportunity to volunteer to forgo longevity pay. This is why I added the additional language to apply to newly elected employees.

**Mr. Sanderson:**

What if a person decides not to volunteer to give up the longevity pay and is fired? This may be because he or she did not volunteer. Some people may not be able to afford to give up longevity pay. What safeguards or procedures will there be to protect those who do not forgo longevity pay?



**Chair Goicoechea:**

These are elected officials. The voters may turn you out because you did not forgo longevity pay. Ms. Chlarson, will you work out the language with Mr. Collins? After the two amendments are integrated, we will revisit this bill in work session. I understand that with the NACO proposed amendment, a board of county commissioners may voluntarily forgo longevity pay as well. Talk to your colleagues, Mr. Collins, and say that if we vote to take longevity pay away from our employees, then we should not take it ourselves.

**Mr. Collins:**

I said that for 9—going on 10 years—every time we executed a contract.

Remainder of page intentionally left blank; signature page to follow.

Senate Committee on Government Affairs  
February 9, 2015  
Page 26

**Chair Goicoechea:**

This gives commissioners the ability to do it, whereas, they could previously say that the statute requires us to take longevity pay. I will close the hearing on S.B. 30. The meeting is adjourned at 3:22 p.m.

RESPECTFULLY SUBMITTED:

---

Darlene Velicki,  
Committee Secretary

APPROVED BY:

---

Senator Pete Goicoechea, Chair

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

<b>EXHIBIT SUMMARY</b>				
<b>Bill</b>	<b>Exhibit</b>		<b>Witness or Agency</b>	<b>Description</b>
	A	1		Agenda
	B	8		Attendance Roster
S.B. 11	C	2	Nevada League of Cities and Municipalities	Testimony
S.B. 11	D	1	Andy Hafen	Testimony
S.B. 11	E	4	Nancy Boland	Testimony
S.B. 30	F	2	Nevada Association of Counties	Proposed Amendment
S.B. 30	G	1	Tom Collins	Proposed Amendment