

**MINUTES OF THE
SENATE COMMITTEE ON JUDICIARY**

**Seventy-Eighth Session
March 17, 2015**

The Senate Committee on Judiciary was called to order by Chair Greg Brower at 1:12 p.m. on Tuesday, March 17, 2015, in Room 2134 of the Legislative Building, Carson City, Nevada. The meeting was videoconferenced to Room 4412E 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 Greg Brower, Chair
Senator Becky Harris, Vice Chair
Senator Michael Roberson
Senator Scott Hammond
Senator Ruben J. Kihuen
Senator Aaron D. Ford

COMMITTEE MEMBERS ABSENT:

Senator Tick Segerblom (Excused)

GUEST LEGISLATORS PRESENT:

Senator Mark A. Manendo, Senatorial District No. 21

STAFF MEMBERS PRESENT:

Patrick Guinan, Policy Analyst
Cassandra Grieve, Committee Secretary

OTHERS PRESENT:

Robert Jacot
Mark Wenzel, Nevada Justice Association
Marlene Lockard, Nevada Women's Lobby
Marie Hodge

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Tony Sclafani, AR Iron, LLC
Karen Jacobs
Doug Nielsen, Conservation Education Supervisor, Department of Wildlife
Garrett Gordon, Community Association Institute; Southern Highlands
Community Association; Olympia Companies
Donna Zanetti, Community Association Institute
Marilyn Brainard, Community Association Institute
Mark Leon, Mountain's Edge Master Association
Chuck Niggemeyer

Chair Brower:

I will open the hearing of the Senate Committee on Judiciary with Senate Bill (S.B.) 230.

SENATE BILL 230: Revises provisions governing the payment of compensation to certain victims of crime. (BDR 16-1038)

Senate Bill 230 removes the limit on the total amount of compensation that may be awarded from the Fund for the Compensation of Victims of Crime.

The Committee heard testimony in subcommittee earlier today in support of the bill from Bryan Nix, Program Director of the Victims of Crime Program (VOCP). We will continue to hear testimony in support of S.B. 230.

Robert Jacot:

I will show a short video ([Exhibit C](#)) and then give my testimony.

Aiden was 10 months old on May 12, 2005, when his babysitter shook and beat him so badly it caused his skull to fracture, which led to his brain swelling. This severe injury caused Aiden's brain to have a lack of oxygen, which resulted in brain damage.

The incident left Aiden without the use of his arms, legs and head. Aiden is fed through a gastrostomy tube, a G-tube, every 3 to 4 hours. Aiden is blind and can suffer a seizure at any given moment. Aiden requires care 24 hours a day, 7 days a week.

Almost 5 years ago, we were in the pediatric Intensive Care Unit (ICU) at Renown hospital. The doctors said Aiden would never leave the hospital. After

being in the pediatric ICU for 4 weeks, Aiden went home. Aiden's doctors and therapists say Aiden's recovery to date is amazing, we are doing a great job and he has made great strides.

Over the past years, we have incurred significant costs caring for Aiden. The VOCP has been there for us every step of the way, and without their financial support, there is no way Aiden would be where he is today.

Aiden and I are here today to request your consideration of S.B. 230.

Mark Wenzel (Nevada Justice Association):

We support S.B. 230. In my practice over the years, I have had a number of people receive VOCP benefits. Many of the victims are young children like Aiden who do not have any other source of recovery other than the VOCP. The money from VOCP is oftentimes the only source of recovery available to cover medical expenses and other necessities pending the outcome of potential civil litigation. The funds come in extraordinarily handy to families.

Marlene Lockard (Nevada Women's Lobby):

We support S.B. 230. The Nevada Women's Lobby works on behalf of women, their children and families. This is an important bill.

Chair Brower:

Seeing no more questions or comments, we will close the hearing on S.B. 230. We will open the hearing on S.B. 221.

SENATE BILL 221: Revises provisions governing the addition of fence rollers to certain walls in common-interest communities. (BDR 10-1006)

Senator Mark A. Manendo (Senatorial District No. 21):

Senate Bill 221 provides that a common-interest community, commonly referred to as a homeowners' association, may not unreasonably restrict, prohibit or withhold approval for owners to add fence rollers to their fences. Fence rollers are designed to prevent wildlife, pets or other animals from coming into or leaving the rear or side yard of a homeowner's property.

I will play a news report elaborating the need for S.B. 221 ([Exhibit D](#)).

The news report focused on a constituent, Marie Hodge, who lost her cat, Arne, to a coyote attack in her walled backyard. Ms. Hodge wants to install “coyote rollers,” or fence rollers, on the top of her fence in order to prevent another coyote invading her backyard. Ms. Hodge’s homeowners’ association will not allow her to install the fence rollers, stating they do not meet the association’s guidelines. Ms. Hodge has brought her case to all who will listen with no relief. She finally came to me for help in this matter, and her request is the impetus for S.B. 221.

Senate Bill 221 does not force owners to have fence rollers.

We had a debate during the 75th Session in 2009 about associations restricting rolling shutters, and the same debate is developing again with these fence rollers. Some decry it will be the demise of the community. We heard this same argument in 2009. The rolling shutter law has been in force for many years now and communities have not fallen apart. In fact, rolling shutters have become the norm.

Having fence rollers is a safety precaution, not only for pets, but also for children. The fence rollers make it difficult for dogs, coyotes and other animals to get the foothold necessary to pull themselves up and over the top of an enclosed yard. Dogs escape yards and attack people and children in their own yards. The rollers keep dogs in and keep coyotes out: it is a win-win situation.

I am a member of the Senate Committee on Natural Resources, and we were recently talking about coyote attacks on people and how it is not uncommon anymore. In California, there were 111 coyote attacks on people, in Arizona there were 37 and in Nevada, there were 9 attacks. I see coyotes roaming frequently in my own community in Las Vegas, the same community where Ms. Hodge lives.

My passion is animal welfare, but I do not want people to be hurt either. Having coyotes in our communities is so common now that we are being taught how to scream and yell if we see one and not to get down because we will be seen as prey and may be attacked. As the drought continues and food sources become more scarce, coyotes are taking risks. Instead of killing coyotes, a better way to handle the situation is to put fence rollers up to keep them out.

Our pets are our family. To lose one in any way, especially with violence, is devastating. The fence rollers are designed to freely rotate with as little as 2 ounces of pressure, yet can withstand up to 250 pounds. I brought some pictures for the Committee to view ([Exhibit E](#)) because fence rollers are a new enhancement in home security. You can see from the pictures that the fence rollers are nicely manufactured and can be matched to any fence color or type.

I know there is concern people might paint the fence rollers pink or purple, etc. If someone is investing thousands of dollars in this safety feature, he or she will be reasonable with regard to the feature's appearance. The bill's intention is the fence rollers match the existing fence.

Let us say, for example, I live in a common-interest community and I want to put up a security door. I am allowed to have a security door, but I am also required to first make sure the door complies with the association's architectural committee's standards on colors, materials, etc. The installation of fence rollers would be handled like the installation of a security door or any other enhancement to a property.

As the bill's sponsor, I am comfortable working with all parties to make sure a bill is crafted that works for everybody.

Chair Brower:

Does S.B. 221 prohibit a homeowners' association from unreasonably restricting or prohibiting the installation of fence rollers?

Senator Manendo:

Correct.

Chair Brower:

Please walk us through section 8 of the bill.

Senator Manendo:

We submitted a proposed conceptual amendment to S.B. 221 eliminating section 8 ([Exhibit F](#)).

Chair Brower:

Considering the proposed amendment, is the intention of S.B. 221 still to prohibit a homeowners' association from preventing residents from installing these fence rollers?

Senator Manendo:

Yes. Marie Hodge will testify to her experience and her desire to install the fence rollers to protect her pets from future coyote attacks.

Marie Hodge:

I had a beautiful cat named Arne. I built a 6-foot wall around the back of my yard to secure my pets in a safe environment. On July 17, 2014, a coyote jumped the wall and took Arne, a cat I adored. The coyote decimated my pet; just his carcass was left. After that experience, I felt there had to be a way to protect pets in their backyards. I learned about the fence rollers from a friend and researched them online. I found an installer but was told I needed to have approval by my association, since fence rollers may not meet the association's design guidelines.

When I sought approval from my association for the fence rollers, I was denied, and so the fight began—and still continues. I have been before my homeowners' association board, appealed their ruling and was rejected again. The reason given as to why the fence rollers were rejected was, "Coyote rollers are not consistent within the Solera at Stallion Mountain design guidelines."

The association refused to meet with the Real Estate Division, so I filed an Intervention Affidavit with the Office of the Ombudsman. I believe the affidavit legally forces the association to come to the mediation table.

The fence rollers are nice-looking, powder-coated and can be made to match existing walls. The fence rollers are installed on back walls and are not seen from the front of the house. A pet can be in your yard and you know it is safe because it cannot jump out of your yard—and you know an animal cannot jump in to get it. It is a humane way to protect our pets and small children.

The coyotes have become a big problem, and associations should be aware of this situation and be more accommodating. Associations should consent to let people protect their animals.

Senator Kihuen:

Would the homeowner still be prohibited from installing the fence rollers if all neighbors agreed to their presence?

Senator Manendo:

Yes. Ms. Hodge has permission from her neighbors and the association still denied her.

Chair Brower:

It does depend on an association's Declaration of Covenants, Conditions and Restrictions (CC&Rs). Ms. Hodge's homeowners' association interpreted its CC&Rs as prohibiting the fence rollers regardless of neighbor agreement.

Ms. Hodge:

I asked my association if they had ever changed or amended the CC&Rs in the 9 years of the association's existence, and even the board members were not sure. People need to realize priorities change as time progresses, and amendments need to be made to reflect that change. The coyotes were not an issue 9 years ago when the association created the CC&Rs, but they are really a problem now.

Senator Kihuen:

Is it at the association's discretion to prohibit fence rollers? I see them as being an enhancement. I do not see the argument that they do not look good. My parents live by Sunrise Mountain on the east side of Las Vegas and get coyotes on their property all the time.

Senator Manendo:

I have a witness from the fence roller industry to talk about the fence rollers and to answer any questions the Committee may have.

Tony Sclafani (AR Iron, LLC):

We are an installer of ornamental iron. Fence rollers can be installed on wooden fencing, masonry walls, and vinyl and chain link fencing.

We were contacted by Ms. Hodge to help her keep wild animals from getting into her backyard. As Senator Manendo mentioned, the fence rollers also keep animals in their own yard. Having heard of numerous pit bull attacks in the Las Vegas area, this is important to keep in mind.

As you can see in the example I brought with me, the fence rollers spin even with the lightest touch. The fence rollers have ribbed edges that keep the animal from gripping onto the roller itself. As the rollers roll, the dog or coyote falls back to the ground. Animals cannot traverse over the fence rollers.

The fence rollers are powder-coated to match existing fence color. The example I have displays two colors. The Sun City Anthem Association and the Sun City MacDonald Ranch Association in Henderson have approved both colors. A week ago, there was a news special on Channel 13 regarding a coyote attack in The Residence at Canyon Gate community of Las Vegas, where a homeowner's pet was attacked and mauled. Since that attack, the Canyon Gate association approved installations of this fence roller.

Chair Brower:

Senator Manendo, it sounds like some associations in Clark County have approved these fence rollers and some have not. Does S.B. 221 seek uniformity so none can withhold approval?

Senator Manendo:

Correct.

Karen Jacobs:

I support S.B. 221. I ask the Committee to recall a case from last year in Washoe County where three dogs tied up in their own backyard were attacked by coyotes jumping the fence. The coyotes consumed the dogs. Coyotes are a problem here, too. The fence rollers could also protect the disabled and children from attacks.

Doug Nielsen (Conservation Education Supervisor, Department of Wildlife):

The agency supports S.B. 221. I have submitted my testimony for the record ([Exhibit G](#)).

Senator Manendo:

I appreciate Mr. Nielsen's testimony. The Department has been holding town hall meetings in southern Nevada regarding the coyote problem. One held in my district had approximately 100 people in attendance. We appreciate the Department reaching out to the community and educating people about preventing coyote attacks. Ultimately, though, sometimes stronger steps are

needed to keep our loved ones and ourselves safe, and that is the reason for S.B. 221.

Chair Brower:

Seeing no further support or neutral testimony, we will hear testimony from those who oppose S.B. 221.

Garrett Gordon (Community Association Institute; Southern Highlands Community Association; Olympia Companies):

While we appreciate the intent of S.B. 221, we do not want to mandate all 3,000 associations in this State to allow fence rollers. I appreciate the bill's sponsor meeting with me earlier to go over our concerns. The proposed amendment, [Exhibit F](#), addresses some but not all of our concerns.

We think the one-size-fits-all solution is not appropriate. There are small and large communities throughout Nevada. Often an association owns the back fence of a property, the homeowner does not. In those cases, the consent of neighbors does not matter because the fence is the association's property. Mandating an allowance for homeowners to put fence rollers on association property is a problem because community property carries liability.

There are other solutions to this problem other than legislation. We heard testimony that some association boards have approved fence rollers. Those boards identified a problem and approved a solution. If unreasonable board members say no to be spiteful, they are term-limited. New, more sympathetic board members can be elected.

An additional route of negotiation can be found under *Nevada Revised Statutes* 116, which allows an association rule or guideline to be amended through a special meeting attended by 10 percent of an association's members.

We will continue working with Senator Manendo. I appreciate his proposed amendment, which addresses the concern we had about aesthetics. In the rolling shutter law, the rolling shutters must comply with design guidelines, so a homeowner cannot have pink shutters, etc. The rolling shutters must also pass a safety inspection and comply with design guidelines.

Donna Zanetti (Community Association Institute):

In 2009, when the Legislature addressed the rolling shutters, an issue affecting human safety as well as energy conservation, a provision was inserted to allow associations with reasonable rules to retain those rules provided the board adopted them by July 1, 2009. We think S.B. 221 is deserving of a similar setup.

Our problem with S.B. 221 is it is a one-size-fits-all solution. I am sympathetic to people who lose their pets, but I am not sure we can legislate safety perfectly.

People buy into associations with the idea they are buying into a set of rules and standards to which they have agreed. Those rules and standards are intentionally difficult to change. That an association has established rules needs to be respected as well as the fact that people choose to become a part of the community. Associations should be allowed to develop their own policies on this issue through the democratic process.

Marilyn Brainard (Community Association Institute):

I am a member of the Community Association Institute and a board member on the Wingfield Springs Homeowners' Association, located in Sparks. We have two golf courses and a lot of open land right up against the foothills. Pets have been lost in our community too, and it is not only the coyotes; there are also raptors in the area. We urge our homeowners to keep their pets on a leash.

As was testified earlier, it is hard to legislate for everyone. We need to let every association have its own rules. No one in our association has asked the board to have fence rollers or devices of the like, so I cannot speak from experience. It is true the coyotes are getting bolder due to the drought.

As Mr. Gordon pointed out, there are more than 3,000 associations, and they are all different. It is difficult when State laws are passed that must apply to all, and it is not fair to owners who purchased in a particular association.

Chair Brower:

It has occurred to me an association has a potential liability problem if a number of residents experience this issue of coyotes jumping over back fences. If there are repeated requests by residents to allow the fence rollers and those requests

are continually denied, at some point, the association is on notice of a dangerous condition.

What is your sense for the potential liability problem an association might have in this situation? Should the association be proactive, or at least be appropriately reactive, to this new problem?

Ms. Zanetti:

Are you talking about premises liability?

Chair Brower:

I will elaborate. I am in Ms. Hodge's situation. Before my Arne was attacked and eaten by a coyote, I knew a neighbor was having a coyote problem in his backyard. I go to my association, state my concern for my own pet and request permission to put fence rollers on my fence. The association denies my request, stating the fence rollers are not in design compliance.

Then, my Arne disappears. Now, I have suffered damages.

I warned the association this could happen. I sought to protect myself and was denied. The association did nothing in response to being put on notice of a potentially dangerous situation, and then the worst case scenario happened and I am damaged because of it. If I am in that position, I might sue. I assume that potential for a lawsuit would in and of itself be a concern for an association.

Ms. Zanetti:

Being sued is always a concern, but I do not believe you will prevail in your lawsuit. We are talking about wildlife over which none of us have control. We have moved into their territory. We have pushed our housing right to the limits of where they used to hunt and live—and still try to hunt and live. They are adapting to us.

I do not think an association has any liability and, as Mr. Gordon testified, many times there are requests to install devices on property an owner does not own and does not control. Sometimes the boundary wall is not part of an owner's property; it depends on how the developer set up lots versus the common area. There is no one-size-fits-all solution.

Chair Brower:

I would like my chances with a jury if evidence included warnings to an association of a problem, expert testimony that fence rollers prevent the problem—and yet the problem occurred and I lost my pet. Absent a motion to dismiss, I would enjoy my chances with a jury on a damages claim.

My point is that the prudent association has a built-in incentive to make the environment as safe as possible and prevent this sort of scenario from occurring.

Mr. Gordon:

Although we could not be sure of the verdict in such a situation, if I am a reasonable board member and coyote attacks had happened numerous times in my community, and I receive phone calls, emails and public comment at hearings about the problem, I would look to changing the CC&Rs.

Alternatively, if I get sued for damage, I would have to go out and expend other unit owners' assessment money to hire a lawyer and defend the lawsuit. As a board member, I also suffer personally from my unit owners questioning me about spending their hard-earned assessment money to defend lawsuits of not putting up these rollers. Many proposed bills this Session address the issue of money coming from all homeowners for the benefit of one, so this is a prevalent issue.

If the attacks continue to happen, then, yes, it would be an incentive for the association to do something reasonable and appropriate.

Chair Brower:

That is the point with my hypothetical situation. At some point, board members and residents must ask themselves why they are not allowing the fence rollers to be installed versus continuing a situation where pets are being attacked and the association is defending lawsuits.

Senator Ford:

Testimony on this bill is similar to testimony I heard last Session while on the Senate Committee on Natural Resources when we talked about communities moving into wildlife habitat, etc. My wife, who jogs, has been chased by a coyote, so I am aware of the issue.

I remember testimony from trappers saying wild animals are moving in to neighborhoods because the trappers are no longer allowed to trap so close to communities. While there is a lot of dynamic going on in the coyote or wildlife issue, I do not see what is unreasonable about what Senator Manendo is requesting in S.B. 221.

I have heard the one-size-fits-all complaint before when hearing testimony on A.B. No. 44 of the 77th Session about trashcans in the front yard. The bill passed and the sky did not tumble down.

It seems time is of the essence with S.B. 221. I would not want to wait for the democratic process if I were at risk of losing my dog to a coyote attack. A quick solution is available that is esthetically pleasing and, for the most part, fits within the CC&Rs. I question why there is opposition testimony to this bill. The fence rollers could not only save pets' lives, but lives of small children.

If a one-size-fits-all mandate does not work for the associations, then I want to see alternative language that does work. How will we protect our pets and children in our own backyards?

Ms. Brainard:

There have been issues similar to this in the past, primarily with basketball hoops in the street, particularly in Clark County ...

Chair Brower:

The dangerous basketball hoops?

Ms. Brainard:

Yes. Fiduciary responsibility and business judgment are some of the tasks assumed when serving on an association board.

As a board member, I know there is a problem when I get phone calls. When there is an issue, one of the tools our association uses is to survey the members. For example, in Wingfield Springs, we would poll all 2,140 association members about the fence rollers.

The associations that approved the fence rollers most likely received a lot of phone calls from residents and decided approving the fence rollers was the right

thing to do. A total survey is one of the tools prudent board members use as a way to work through a volatile issue like this.

Chair Brower:

To reiterate your point, an association board member's perspective is that associations should have the right to do due diligence on an issue and have the right to decide if a remedial measure is warranted, given their CC&Rs and the general wishes of the residents, perhaps based upon a survey of the residents. Is my summary correct?

Ms. Brainard:

Correct. Additionally, if enough unit owners felt there should be a change, there is the option Mr. Gordon presented: do not reelect those board members. Board elections are every 2 years in our association, so someone can run who represents the opposing viewpoint. Change could be effected, although not overnight.

Senator Ford:

We heard those same arguments when then-Senator, now Lieutenant Governor, Hutchison, entertained the bill about hiding trash cans behind the wall—not even an issue which affects the lives of pets or children.

I still am not persuaded S.B. 221 is going to cause so much turmoil, and this seems to be a more important issue than merely hiding a trash can. I ask you to submit language that is not one size fits all, but still addresses the problem—a very new problem that did not even exist 2 years ago.

It is also a growing problem, which means it needs to be addressed now rather than waiting a year or two to elect new board members.

Mark Leon (Mountain's Edge Master Association):

I am a board member for the Mountain's Edge Master Association, a community of about 10,500 homes. I oppose S.B. 221 because it will affect thousands of associations when it seems only one or two boards are objecting to the fence rollers. The coyote problem appears to be only affecting one community, and the best solution is to get somebody on the board who supports your view. The turnover of one board member could make the difference and then the problem disappears.

Chuck Niggemeyer:

I am a homeowner, a board member and a member of Community Association Institute. I have 24 years of experience of being on association boards in Washington and in Nevada. I oppose S.B. 221.

I agree with comments regarding the bill is a one-size-fits-all mandate. One size does not fit all most of the time, and change is not easy. It is true we are infringing on the coyotes' natural habitat and have a problem with birds of prey.

Regarding lawsuits and liability, another issue with the fence rollers is if your neighbor does not want you to put the fence rollers up, but you install them anyway because legislation permits it; then, your neighbor's child is hurt or stuck in the roller. Where is the liability? This needs consideration.

Associations have to be careful about what they allow. If someone breaks into my home and I want to install razor wire on my wall as a result, it is the same principle as the fence rollers. Board members are usually reasonable about such requests. I prefer policies be established at the association level than to have a State law and we have nothing to say about it. With this bill, if I am a neighbor who does not want the fence rollers put up, I do not have choices.

I used to have pets, and I am sorry people lose their pets to coyotes.

Chair Brower:

I want to remind the public, whether S.B. 221 is a good bill or a bad bill, people have a choice in whom they elect to the Legislature. If you do not like what your Legislator does on an issue, you have a choice not to send him or her back next time.

Sentor Kihuen:

Mr. Gordon, what is the process if someone wants to put up a fence roller? Are fence rollers allowed? Do owners have to go through an application process?

Mr. Gordon:

The allowance of fence rollers is based on an association's CC&Rs.

Some associations may allow them subject to approval from their architectural committees. A committee's allowance is usually subject to a color or certain

look; however, associations may prohibit the fence rollers entirely, saying they are not allowed.

Most documents are quiet on fence rollers, which are likely to be considered a property enhancement. This situation means an owner has to go to the board to get the installation approved. A board's decision would be based on the CC&Rs, a document all owners reviewed and signed when they purchased the property.

Some unit owners have pets and some do not, so in some associations, it is possible there are those who do not want the fence rollers. Those in opposition could say those who want fence rollers made a choice to bring pets to the community. For every unit owner who wants the fence rollers, a handful of owners do not. Boards have to make their own decisions on the appropriateness of fence rollers and if their CC&Rs should be amended to allow them.

Senator Kihuen:

I cannot see a legitimate reason why the fence rollers would be denied. If the back wall is association property or a golf course is involved, I understand; but in those cases, the bill can be amended. A process can be built in for those types of property. Is there another reason to deny these fence rollers other than their appearance or a neighbor not wanting it?

Ms. Zanetti:

There are several reasons why an association might not want to approve the fence rollers.

The wall may not be the owner's property, and it belongs to someone else, perhaps to the association. If it is association property, then the association has the obligation to insure it, and we have already testified to liability issues.

Do the fence rollers create an entrapment hazard? Can I get stuck and injured in the fence roller? If I do become stuck in the fence roller, would the association that owns and maintains that wall be liable for the injury?

There are also maintenance issues. What happens when an association allows people to drill into or affix things to the wall the association is responsible for maintaining? What impact does that have on the association's maintenance costs? How will the fence rollers be maintained? What about when the property

changes hands? Who is responsible for taking them down? Who pays those costs?

There are a number of issues created by these one-size-fits-all mandates—issues having nothing to do with esthetics. Such issues pertain to liability, maintenance concerns and costs imposed on all owners, not just the one who wants the coyote rollers.

Senator Ford:

Senate Bill 221 does not say fence rollers must be allowed—it says “an association may not unreasonably restrict, prohibit or withhold” from a landowner the right to be able to put them up. Associations will still retain the discretion you say they need to have. Section 5 clearly states an association “may not.” What objection do you have to the language?

Ms. Zanetti:

If we refer again to the rolling shutters bill, the practical impact of that bill becoming law was very few restrictions were deemed reasonable. The practical application was rolling shutters being permitted anywhere the legislation allowed them to be installed.

Senator Ford:

Therefore, saying “an association may not unreasonably restrict” may as well say “association must do it.”

Ms. Zanetti:

Yes.

Chair Brower:

To address Senator Kihuen’s earlier question, CC&Rs typically articulate a type of fence in terms of color, material and height, but do not address fence rollers, as they are new. The installation of fence rollers, however, deviates from the acceptable type of fence and undermines the uniformity within the association. Is my assessment correct, Mr. Gordon?

Mr. Gordon:

Yes, that is a good summation.

Chair Brower:

Yet something new has come up given the growing threat from the coyotes. This needs to be considered.

We will hear closing remarks from Senator Manendo.

Senator Manendo:

Chapter 116 of NRS is a lengthy set of statutes for a reason. During the past 20 years I have been in the Legislature, we have made changes to NRS 116 that were controversial at the time, yet things have worked out fine.

Regarding the issue of maintenance: if an owner puts up a fence roller, the intent is the owner is responsible for maintaining the fence roller.

If the owner sold the property and the new owner did not want the fence roller, like having rolling shutters on the house, it is the new owner's responsibility to remove them. If an owner put a security system in the house, or floodlights or security doors, etc., it is up to the new homeowner to maintain or remove those enhancements.

It is correct to say there are probably associations that have no problems with coyotes. There might be associations that have problems with dogs escaping their yards and attacking other pets or people.

If there is no issue, owners will not want the fence rollers. Why object to something no one may install anyway? I do not know how to legislate for that. Do you make a provision that if you live in the inner city, you do not have to have fence rollers? You will likely not get fence rollers, anyway, because they are expensive and probably unnecessary.

Owners who go to the trouble and expense to install fence rollers feel they really need them to protect their family or their pets—it is a quality investment, like the rolling shutters.

I hate to see people forced to expend resources and time in suing their associations and having to go through the court system—that is why citizens have the Legislature. A citizen has different processes he or she can go through to get what is needed. One way is the judicial process and another way is the legislative process.

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There may be owners who feel strongly enough about their pets, or loss of their pets, to take this issue to court. Associations will have to spend their assessment money to fight those cases. I do not want associations to have to go through the expense of the court process either, but some may end up there if this bill does not pass.

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Chair Brower:

Seeing no more business or public comment, I adjourn the meeting at 2:29 p.m.

RESPECTFULLY SUBMITTED:

Cassandra Grieve,
Committee Secretary

APPROVED BY:

Senator Greg Brower, Chair

DATE: _____

| EXHIBIT SUMMARY | | | | |
|-----------------|---------|----|-------------------------|-------------------------|
| Bill | Exhibit | | Witness or Agency | Description |
| | A | 1 | | Agenda |
| | B | 3 | | Attendance Roster |
| S.B. 230 | C | NA | Robert Jacot | Movie File on CD |
| S.B. 221 | D | 1 | Senator Mark A. Manendo | Link to News Clip |
| S.B. 221 | E | 1 | Senator Mark A. Manendo | Photos of Fence Rollers |
| S.B. 221 | F | 1 | Senator Mark A. Manendo | Proposed Amendment |
| S.B. 221 | G | 1 | Department of Wildlife | Support Testimony |