

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

**Eightieth Session
March 19, 2019**

The Committee on Government Affairs was called to order by Chair Edgar Flores at 9:02 a.m. on Tuesday, March 19, 2019, 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/80th2019.

COMMITTEE MEMBERS PRESENT:

Assemblyman Edgar Flores, Chair
Assemblyman William McCurdy II, Vice Chair
Assemblyman Alex Assefa
Assemblywoman Shannon Bilbray-Axelrod
Assemblyman Richard Carrillo
Assemblywoman Bea Duran
Assemblyman John Ellison
Assemblywoman Michelle Gorelow
Assemblyman Gregory T. Hafen II
Assemblywoman Melissa Hardy
Assemblyman Glen Leavitt
Assemblywoman Susie Martinez
Assemblywoman Connie Munk

COMMITTEE MEMBERS ABSENT:

None

GUEST LEGISLATORS PRESENT:

Assemblywoman Heidi Swank, Assembly District No. 16



STAFF MEMBERS PRESENT:

Jered McDonald, Committee Policy Analyst
Connie Jo Smith, Committee Secretary
Trinity Thom, Committee Assistant

OTHERS PRESENT:

Kathy Clewett, Legislative Liaison, City of Sparks
Brian McAnallen, representing City of North Las Vegas
David Cherry, Government Affairs Manager, City of Henderson
Charles Donohue, Administrator, Division of State Lands; and State Lands Registrar,
State Department of Conservation and Natural Resources
Shani J. Coleman, Deputy Director, Government Affairs, City of Las Vegas
Sami Real, Planning Manager, Clark County

Chair Flores: [Roll was taken. Committee rules and protocol were explained.] We have two items on the agenda. We will take them in order, and I will open the hearing on Assembly Bill 198, which revises provisions governing the use and ownership of certain governmental real property.

Assembly Bill 198: Revises provisions governing the use and ownership of certain governmental real property. (BDR 20-953)

Assemblyman Glen Leavitt, Assembly District No. 23:

I am pleased to present Assembly Bill 198 for your consideration, and I am grateful to get to present my first bill before the hardest working Committee in the building. With that, I would like to begin by providing a bit of background. Currently, there is land where lines have been drawn by mistake. Surveying has made great strides in the last 20 years. Many years ago surveying was a little more difficult to do. Businesses have the potential to close or relocate in certain areas because they are unable to continue to use the land they are currently occupying effectively. I would briefly like to touch on a specific situation that could potentially affect private property owners across the state in many municipalities.

Here we are looking at several pieces of property (Exhibit C). These businesses are in my district. As you can see, the property line is considerably farther back than the sidewalk. So for these properties, an auto parts store and a handyman shop, the sidewalk has been there for over 45 years. The property owners have been putting the asphalt in and have been maintaining and utilizing the property right up to the back of the sidewalk under the assumption that it was their land. The business owners did not put in the sidewalk. The owners came to me and said that if the municipality or the Department of Transportation (NDOT), whoever currently owns the land, were to take that land back, this business would have to close. They operate a U-Haul business where they have to utilize this frontage to park U-Hauls, and they could no longer do that—that was the impetus behind this legislation. I would assume there are places across Nevada where some redevelopment is being done,

where private property owners, through no fault of their own, have been assuming land where the curb, gutter, and sidewalk have been installed. With that, A.B. 198 would direct under sections 1 and 4 for land owned by a municipality or NDOT to offer conveyance to a private property owner if that land has been occupied and maintained for 20 years or more through no fault or intent by the private property owner.

Upon review of the present Assembly Bill 198, I would like to submit the following conceptual amendments ([Exhibit D](#)) as I have talked to different municipalities and tried to make sure we were not going in a direction that would be against the municipality itself. The first conceptual amendment would be to clarify that this is not adverse possession. It does not apply to this bill. The owner did not draw the lines. The owner did not occupy the land prior to the sidewalk being installed, so through no intent of the property owner did they possess this land.

The second amendment would be to include any real property owned by any municipality and the Nevada Department of Transportation. The original bill says "state-owned" land. We are pulling that out. We do not want to include state-owned land or federal Bureau of Land Management (BLM) land. The purpose of that is, we do not want to create an adverse possession where somebody is out in the middle of nowhere and their property adjacently abuts state-owned or BLM land. They decide that they are going to build a fence out across there. Well, no one comes out there for 20 years and they say, You now have to convey this land to me. This is what we are trying to avoid. That goes along with conceptual amendment 3 where we exclude state-owned land ([Exhibit D](#)).

Conceptual amendment 4 would be to amend the bill so that the private property owner to whom the property is conveyed is additionally responsible for one year of property taxes from the year the land is conveyed to them. If the land is conveyed to them in 2019, then they have to pay 2018 property taxes on that portion of the land, because they are currently not paying the full property taxes even though they are enjoying the land as it currently exists.

The final potential amendment, amendment 5, would be to work on the language to determine who would handle the conveyance of the land. There are some costs associated with conveying the land, redrawing the lines, and redoing title to the land. I am working with the municipalities and with the Legal Division of the Legislative Counsel Bureau now to come up with some language that would do as little harm to both parties as possible. Potentially, the property owner would pay the title fees associated with the conveyance of that land. Then maybe they could split the surveying fees 50-50 due to it not really being anyone's fault that the lines were drawn that way.

I want to make it clear that this bill in no way promotes or encourages adverse possession. It does, however, promote public purpose that benefits our constituents, as well as provide compensation to the municipality in the form of increased property taxes. In Nevada, the United States owns 84.9 percent of the land, so 84.9 percent of this land would not even be a factor in this. In my region, a lot of the surrounding land is owned by the U.S. Department of

Defense or BLM, so that land would not be on the table for this conveyance. I only bring this up to highlight that the amount of land that private citizens have to expand on is not a lot. This is not a far-fetched idea. Congress has regularly passed legislation to offer a conveyance of lands normally under these conditions.

This concludes my remarks. I appreciate the Committee's consideration, and I am happy to answer any questions.

Assemblyman Ellison:

We have been running into a lot of this down by Carlin where they have a 75-foot easement on each side of the road. The Department of Transportation has been asking if the city would go ahead and take that off, and they would have to maintain it. They have been trying to get that done for a long time, but NDOT offered them a pretty good deal to go in there and vacate that property to the city. What the property owner should do is ask, between the city and NDOT, to see if they could set up a meeting to see if they can vacate that over to the city or to the property owner. That happens a lot. I am doing one right now. It is not NDOT but it is a city right-of-way. It is something to think about. I was hoping to tell you this is the worst bill I have ever seen, but I am not going to do that; it is a good bill. I would have those property owners start there. The bill will help clarify, but NDOT does not want to maintain that.

Assemblyman Leavitt:

That situation actually exists in this picture ([Exhibit C](#)). Where the pink line is, the bottom half is currently NDOT land that they are potentially going to deed to the municipality. This is formerly Interstate 95. With the installation of Interstate 11, this road is no longer needed to be an interstate. The name of the road was changed to Nevada Way. This current property is going to be conveyed to the city. The property owners are just worried that the city is going to then encroach upon their land and detrimentally affect their businesses. That is the same situation that is happening here. The property owners have been in contact with the city and have not gotten as far as they would have liked, so that is why I was asked to bring this bill forth.

Assemblyman Hafen:

If I understand, what you are trying to do is clarify the difference between a prescriptive easement, which is typically five years of use according to the *Jordan v. Bailey*, 113 Nev. 1038 (1997) decision and what the county—and, I believe, your amendment would include NDOT—may possibly do? But you were changing it to 20 years, is that correct?

Assemblyman Leavitt:

It is a little different. Easements are a different animal. Any easements that are currently on this land, whether it be a utility easement through NV Energy or Southwest Gas, would continue to exist because easements are not property ownership. They are just use easements. So as the property line scoots down and aligns itself with the back of the sidewalk, the easement would still exist. The easement is not dependent on who owns the property. This is not an NDOT easement; this is NDOT-owned land. That is what I want to

make clear. There are no easements being taken away because they are use easements. The easements would still exist. They will still have wire underneath their property. They will still have gas fixtures, if they currently exist.

Assemblyman Carrillo:

Regarding the conveyance, you are just looking for the private property owners who will take over the existing property line up to the sidewalk? And, of course, that would be as Assemblyman Ellison said. He was saying he has the same situation in his area. Would there be a strict conveyance—no taxes, no exchange of money or request of money from the private property owner? Because now, they are giving up land. Are we looking at just that? Or is there going to be the value of the property as well?

Assemblyman Leavitt:

How we worked it out was that they have to pay the previous year's property taxes on that portion. They would not necessarily have to pay the value or estimated value of the land. We thought that paying the property taxes on that portion of the land would be sufficient. It would reduce costs of having to try and bring someone out to get the value of the land and then arguing over how much it is actually worth. What they would do is pay the conveyance fees, and they would pay the previous year's property taxes to the municipality or NDOT, whoever currently owns the land that they conveyed from. Then they would pay the property taxes on that land into the future.

Assemblyman Carrillo:

So we know this is an apparent problem that has happened. Is this something that needs to be effective forever? Because, obviously, you might run into problems in some other municipalities where they may not feel the same way. But, then again, this is to fix a problem that has existed since the street and the sidewalks were run through. Is this something that is needed forever, or is this just a onetime deal? What are we looking at?

Assemblyman Leavitt:

I think the problem will eventually fix itself. Our surveying equipment has made big strides. The property lines are not getting drawn as improperly as they had been in the past. There are going to be areas where some redevelopment is being done where the lines were drawn many, many years ago. They may have been drawn improperly to where they are going to have to offer conveyance to the private property owner. Let me emphasize the word "offer." This is not a requirement. These two or three property owners could say, Yeah, we do not want it, so do what you want. Any property owner has that right. We are just giving them the opportunity to continue to use the property as they have been for 40 years. I think the problem will fix itself. As we go through looking at lines, I did it with my job at the Regional Transportation Commission of Southern Nevada when I was looking at putting in bus stops, trying to find easements, and trying to find public right-of-way and where it existed. There were a few places where the lines were misdrawn, and I had to go and talk to people and explain to them that they are going to lose the use of their land simply because the lines were drawn improperly. But I think as jurisdictions get more sophisticated software and more sophisticated surveying equipment, the problem will fix itself.

Assemblywoman Bilbray-Axelrod:

I have a couple of concerns. What is the average cost of a survey fee?

Assemblyman Leavitt:

I am not certain.

Assemblywoman Bilbray-Axelrod:

I am assuming they are not cheap, typically. So when you are putting it on, then the municipality is on the hook. I know you were coming up with a concept of paying half of that. The benefit is all to the owner who is now getting land from the municipality, and then the municipality is on the hook for paying possibly half of that survey. I also am concerned that if we codify this in statute, then we have people who could take advantage of the situation saying, Oh, I did not know. I assumed this was my property. We are kind of putting the onus on people to be honest about the real property. I am not saying that I am against it; those are my concerns. Municipalities do not like unfunded mandates. I think there is a little work to be done as far as the survey aspect of it.

Assemblyman Leavitt:

That is something we have been discussing. I do not know what the survey fees are, and they are probably different for each municipality. I have been discussing this with the municipalities that are potentially affected by this. We will continue to have that dialog to try and figure out where it is even.

The reason for the 50-50 split is because the property owner did not draw the lines. The municipality or the current owner did. It was not intentionally done or misdrawn. The sidewalk was not intentionally put in the wrong place, but it was under the direction of the municipality, and that is why we said, Well, maybe 50-50, because it was not the fault of the property owner. Keep in mind that the property owner has been maintaining this land. The asphalt that is there has been under the purview of the property owner, so they are maintaining land that they do not currently own because they thought they did. I appreciate that, and I will continue to work with that.

Assemblywoman Bilbray-Axelrod:

I would just say, in this particular case, I think there is a little bit of work that needs to be done.

Assemblyman Assefa:

Someone could intentionally occupy land that does not belong to them and are hoping and praying that nobody comes claiming it for the following 20 years. But then somebody does show up saying, This land does not belong to you. In section 1, subsection 3, paragraph (b), you are saying that the taxes should be effective the date the land is conveyed to them. Using your own words, they have been enjoying this land for the past 20 years. Why not retroactively go back and assess the fees that rightfully belong to the municipalities where the land belongs and possibly set up payment arrangements or something like that? Why is it

fair that they have been using it for 20 years, but we are only charging them effective the day we convey to them?

Assemblyman Leavitt:

That was something we thought about, but what we are trying to do is not detrimentally affect businesses. If you throw a tax bill on them for 50 years of unpaid property taxes that they did not know existed, that could be a huge tax bill for them, and it could cost them their business. What we are trying to do is help these businesses continue to operate in an effective manner. This is not us trying to take anything away from the municipality or NDOT. They drew the line. They put in the sidewalk. In the language, we wanted to make sure that there was a false line drawn, which is the back of the sidewalk. The property owner did not install that sidewalk. They just said, Okay, under normal circumstances, my property starts at the back of the sidewalk, so I am going to start using it. If it were not the case, if they said, Well, we are going to look at the surveying lines, and 50 years ago they did not have gizmos so they did not have this picture that they could look at, but they would have a dirt spot between the sidewalk and their property. It would be a little silly. But that was something we looked at. I do not want to detrimentally affect these businesses. I want it to be a win-win for everyone. I want it to be a win for the municipalities, who are now collecting property taxes from that property, and for the businesses to continue the ability to use their property effectively.

Assemblyman Assefa:

I know you provided that example. Do you see this issue exclusively with businesses, or does this happen with rural residences or even urban residences who fall into this predicament?

Assemblyman Leavitt:

Yes, I see it in all cases. It is not just businesses, but it could be residential areas as well. For example, if you look at the historic downtown area in Las Vegas, those lines were drawn a long time ago. There could be some potential misdrawn lines and, as they go in to redevelop or revitalize that area, we want to make sure that the private property owners are not affected by some misdrawn lines.

Chair Flores:

Committee members, are there any additional questions?

Assemblyman Ellison:

When a lot line adjustment is done—and as I said, I spent a lot of time with either Jeff Fontaine or Rudy Malfabon, formerly with NDOT—they have so much inventory and they have only so much money, so what they are trying to do is get the cities to step up to the plate. They go back to these areas and they do a lot line adjustment, and either the city or NDOT might make a deal with doing the survey. The Department of Transportation's fees have dropped, or money the department receives from the federal government and state fuel tax has shrunk. They are doing everything they can to try to put these back into the city's hands where they could operate just like this here. They can do that by lot line adjustment.

The Department of Transportation does not want to pave—say that is ten feet—and then maintain that, even though the property owner is doing that for them. I really think they will step up to the plate and help. I was hoping maybe somebody from NDOT was here and they could answer that. Right now that is a common thing. The Department of Transportation is trying to get rid of this stuff on the side of the roadway so they do not have to maintain it. They have only so much money. That is what they are trying to do: to work with the cities and the property owners to take some of this burden off them. I see this a lot in different areas, so I think it is something you can work with. They are even asking the cities. They will come in and pay them and maintain it up to the first year and give them money where they will have to take this because they are being impacted. This is a great deal why the city could step up to the plate or the property owner. It is pretty common.

Chair Flores:

Committee members, are there any additional questions? [There were none.] Those wishing to speak in support of Assembly Bill 198, please come forward.

Kathy Clewett, Legislative Liaison, City of Sparks:

I am here today in support of A.B. 198 with the conceptual amendments. I also have not seen the real amendments, and I very much appreciate working with Assemblyman Leavitt. He has been working with us since this bill came out. We have a lot of the same concerns which you have been addressing. We also know within a city, under *Nevada Revised Statutes* (NRS) 268.001, we can already do that. We can already convey land. Our impression also is that this is absolutely trying to address a situation within Boulder City and with the Department of Transportation. To your comment, Assemblyman Ellison, we have actually done that with NDOT in the City of Sparks. There are quite a few roads in Sparks that were NDOT roads where nobody knew that. They always thought it was Sparks—we knew they were not our roads. They were NDOT roads, and we worked with NDOT. They came through and completely repaved sidewalks and everything, like our Glendale Avenue and some of the other major roads within our industrial area. Then they gave them to us, and we are taking care of them. But they got them up to our specifications and then they deeded it back to us. We are taking care of it for exactly the reason you were saying. They do not want to come through the city anymore and do anything. We think this is workable. It is always that the devil is in the details, and we have not seen it. We know this can already happen. We do not want this to be something that happens everywhere, and that is why we were very clear that it had to be in the statement that there was not an adverse possession on this. That was key to our city attorney's office.

I am happy to take any questions.

Chair Flores:

Committee members, are there any questions? [There were none.] Is there anyone else wishing to speak in support of Assembly Bill 198? [There was no one.] Is there anyone wishing to speak in opposition to Assembly Bill 198?

Brian McAnallen, representing City of North Las Vegas:

While we are sympathetic to the issue that is going on in Boulder City, we have a little concern about how this bill would roll out. As we have heard from Assemblyman Ellison, this is going on quite a bit with NDOT. But there is a practice in the way in which that land is transferred. You heard from a previous speaker that a lot of this can be done now, administratively, understanding that there is a challenge with those particular parcels in Boulder City. Hearing the conceptual amendment, as that gets worked out, maybe our position will change, but at this point, we are opposed to the bill the way it is drafted.

David Cherry, Government Affairs Manager, City of Henderson:

First and foremost, we want to thank the bill's sponsor for giving us the opportunity to come in and have some very substantive discussions with him about some of the city's concerns. We are here today, in part, in opposition as well because we have not seen the actual amendment language. We are aware of the conceptual amendment, and there are some things that he put on the record today that were very helpful to us. As some of the previous speakers have mentioned, the adverse possession issue is very important to us. We have had instances where people have attempted to encroach on city land, and we want to make sure that this does not in any way gray up what is existing law that gives us the ability to protect the city land against encroachment.

We also appreciate the sponsor's willingness to look at who should cover the costs of elements associated with the land transfer, such as the mapping, title insurance, and recording. We hope we can get to some agreement on that. Thank you to Assemblyman Leavitt for his response to Assemblyman Hafen's question when it came to the issue of easements. In our discussions with him, we were given assurances that we would maintain the right to those easements, which was also very important to the city. Until we see the final amendment language, we are going to go ahead and reserve our right to oppose A.B. 198.

Finally, I would like to leave you with the idea the other speakers have discussed. We do have the discretion to do this now under NRS 268.001. We hope that you would look upon this as something that the cities would be able to maintain because we think it is in the best interests of the residents of the city for the city to be making that determination. We think that if the bill could be modified to include something in there that ensured that the discretion remained with us rather than the property owner, that would probably get us to the point where we could be supporting.

Assemblyman Ellison:

I agree with you, and I have one question. If you have somebody who is a property owner and they say, There is a piece of land that I need for more driveway or whatever, they come to the city, and then it goes to the planning commission, and they ask for a vacate of that property. Then from the planning commission, it will go back to the city board. Is that not how you do it?

David Cherry:

I believe that is our process, Assemblyman Ellison. I would like to check with the folks who do the planning work at the City of Henderson just to make sure I am accurate in responding to your question, but I believe that you are correct.

Chair Flores:

Is there anyone else wishing to speak in opposition? [There was no one.] Is there anyone wishing to speak in the neutral position?

Charles Donohue, Administrator, Division of State Lands; and State Lands Registrar, State Department of Conservation and Natural Resources:

I am here in the neutral position on Assembly Bill 198. I would like to thank the bill's sponsor, Assemblyman Leavitt, for meeting with us a couple of weeks ago regarding our concerns. With his conceptual amendments, I feel like the Division of State Lands can testify in the neutral position.

Chair Flores:

Is there anyone else wishing to speak in the neutral position? [There was no one.] Assemblyman Leavitt, are there any closing remarks you may have?

Assemblyman Leavitt:

I just want to thank you for hearing this bill. It is important to all of Nevada. I used the example of Boulder City just because it was close to home, but I think there are similar situations across the state. I am grateful that I got to give my first bill in front of moderately friendly faces—no, really friendly faces—and I really appreciate the thoughtful questions. I will just state that I was chairman of the planning commission in Boulder City, and to vacate land is a pretty lengthy process. Oftentimes we would only do it once a year, so the property rights of these businesses could be affected if they had to wait a year or two to have the land conveyed to them. I appreciate the municipalities coming in and voicing their concerns, and I will continue to work with them to try and get this to where everyone is comfortable and especially the businesses that need this so desperately.

Chair Flores:

I will close the hearing on Assembly Bill 198. Next, we will move to Assembly Bill 230 that revises provisions governing historic preservation.

Assembly Bill 230: Revises provisions governing historic preservation. (BDR 22-298)

Assemblywoman Heidi Swank, Assembly District No. 16:

Assembly Bill 230 is something of a cleanup bill. Just a little history lesson: This goes back to the 2009 Session when Assembly Bill 304 of the 75th Session was placed in statute as a second and parallel means for designating a group of homes or a site as historic. It created the term "historic neighborhood" as distinct from historic district that is laid out in *Nevada Revised Statutes* (NRS) 384.005. This was then-Assemblyman Segerblom's bill. I have discussed this with the current commissioner, and he [Clark County Commissioner

Segerblom] is okay with making the change. I understand the intent of the legislation was to create a simpler way to designate a group of homes as historic. However, it has created some confusion by having two places in the NRS where you can designate a group of homes as historic, and in this chapter, it leaves the oversight of what are called historic neighborhoods a bit unclear. Assembly Bill 230 clears up the lack of clarity and creates a clear path for designating and overseeing designated historic neighborhoods. The bill also inserts the word "landmark" in various historic preservation chapters of NRS. Just to clarify, landmarks are under the purview of the Office of Historic Preservation, State Department of Conservation and Natural Resources. Landmarks are places or buildings that represent an outstanding aspect of Nevada, of Nevada's history and culture. This is a rather small change, just to make sure it is very clear that landmarks are under the purview of the Office of Historic Preservation. I will take you through the bill unless there are questions at this point. [There were none.]

Section 1, subsection 1, merges section 3 of this bill, that you see is deleted, with parts taken from NRS 384.005 for historic districts. So it adds in a few of those pieces, a bit of the meatier pieces that we need to make historic neighborhoods function better. It gives counties and cities the ability to designate historic neighborhoods. Subsection 1, paragraph (a), states that a historic neighborhood must have ten or more units, and two-thirds of these must be at least 40 years or older.

Subsection 1, paragraph (b), is your standard criteria for designating a site, district, neighborhood, a building, or a structure. You have to have some kind of historic significance, so either it has to be the cultural, social, political, or economic history of the area that is marked by that resource, or it could be associated with a person, group, or event in local, state, or national history. As an example of that, on the Clark County historic register is the Liberace mansion, once owned by Liberace, obviously. But because of his significance in local, state, and federal—you do not have to have all three of them; Liberace just happens to hit all three of them because he was an important figure in history—that is how we are able to designate that building.

Another reason you could designate a building or a neighborhood is that it is a familiar visual feature because of its location, design, or architecture, or it could meet the eligibility requirements for the Nevada State Register or National Register of Historic Places, which has a higher bar than local registers.

Section 1, subsection 2, deals with noticing a meeting requirement. It states that a notice of a hearing to designate a neighborhood has to be published weekly for three consecutive weeks; it must state the purpose of the hearing and also the boundaries for the proposed historic neighborhood. After that notice, a public hearing is held where people can come and voice either their support or their opposition to the designation of that resource.

Section 1, subsection 3, is the designation timeline. It states that within 15 days after the hearing, the local jurisdiction can either designate a historic neighborhood and fix boundaries or determine not to designate it.

Section 1, subsection 4, lays out requirements for an ordinance to designate a historic neighborhood. It states there must be criteria to achieve historic preservation. What those criteria are is left to the jurisdiction because this is that local process. This is the statewide process, so a lot of leeway is given to the local jurisdiction to fix those criteria. These could be things like design guidelines—what houses or a building or a structure should look like in a particular area. It could be processes for informing homeowners, reaching out to homeowners; there are a lot of different things that can fall under that broad category. It also says that it must create a design review board to review alterations to homes. This is a really key piece because this is the piece that we were lacking before which made it very difficult to have oversight for changes that would happen in a local district.

Section 1, subsection 4, allows additional ordinances to be adopted. Section 3 removes the portion of Assembly Bill 304 of the 75th Session that is now in section 1, subsection 1, of this bill. Sections 2, 4, 5, and 8 make conforming changes.

The last substantive part is section 12 which adds "a landmark" to the list of resources that can be put on the State Register of Historic Places. The remaining sections—6, 7, and 9 to 11—make conforming changes.

That is pretty much the bulk of the bill. One of the things that I should mention is that this is specifically for a local register. Local registers are very different from the state and national registers. State and national registers are merely honorary lists. They do not come with design guidelines. There is no process for making alterations to a building or a structure or a site that is on a state or national register. I always tell people that buildings that are on the state or national registers are demolished every day—or almost every day. That is really just an honorary list. Local registers, which is what this deals with, have to be something that local jurisdictions choose to put into place. They do not have to put one in place. We have many towns and cities that do not have a local historic preservation ordinance. It does allow each local jurisdiction a lot of leeway about what it considers to be historic preservation and what they want to include in that ordinance specifically, because it is the local register that has constraints on alterations—most often to the street view of the building, not to the back or the interior of the building, just a street view. But because those constraints come with being designated on a local register, those are local decisions, and that is why we do not lay out in the NRS specifically how each of these ordinances would function.

With that, I am happy to answer any questions you may have.

Assemblyman Carrillo:

Regarding the qualifications on section 1, subsection 1, paragraph (a), it talks about a minimum of ten residential dwellings, right? Or more? For instance, you mentioned Liberace's neighborhood. Those are nice homes in that area, but sometimes there are some people who do not keep up their properties. They let them go, for whatever reason. They might be a recluse and they just do not really care about the property. Is there something like an honorary homeowners' association (HOA) that would require the homeowner to paint the home's fascia boards and keep the yard clear of weeds? I am not saying that I am for HOAs,

but if you start having a few houses around that are not keeping up with the Liberace house and are starting to take a downward spiral, what is in place to prevent that from happening? Yes, it is historic preservation, but nobody is taking steps to ensure that the surrounding homes are kept on that level.

Assemblywoman Swank:

This does not address that; however, that would be something that would go through code. It would be a code violation more than anything. It would go through the same process. This does not cover that. It is really left to the local jurisdiction as to what those nitty-gritty details are. For the most part, it only covers the building, not the landscaping, unless your landscaping is designated, which is possible but not common. It is usually just the homes. It does not have to do with how well you keep up your house. It has more to do with if you want to add a second story on your one-story ranch home from 1956, that would have to go through a design process. Just looking at the way the City of Las Vegas has done historic preservation is that they have never had anyone actually rejected for the changes they wanted to make because they work with the homeowners in order to make sure they understand the goals of the homeowner. When those alterations need to be made, they work with them to find the best path so they can get through the process and alter their home in a way that meets their needs. It may not be their exact original plan, but it meets their needs. Otherwise, the issues you are talking about would go through a code violation process.

Assemblywoman Bilbray-Axelrod:

I am wondering if you could give an example of a landmark in a historic neighborhood?

Assemblywoman Swank:

That is a good question. We have not been designating landmarks, but they are usually very, very significant buildings. I would think the Huntridge Theater could be something that could be designated under a landmark. But that is already on the Nevada State Register as a building because of the architecture of it. I am not sure that I have an answer for your question, but I could certainly get you a list of national landmarks.

Assemblyman Ellison:

What happens if they do go into a redevelopment area like this? Is this a tax increment if they do declare this a historic area like a subdivision with ten or more houses? Is this like a redevelopment with any kind of tax base that has to go into this area?

Assemblywoman Swank:

No, there are no fees. There is nothing that goes along with that. A local jurisdiction might be able to do it, but I do not know of any that do that in Nevada, and I cannot think of any in other states that do that. There are no fees that go with it. It is not like an HOA where you have to pay in. At least in Las Vegas, many people who live in historic districts do not want to live in HOAs, so that would not be anything we would at all want to take advantage of.

Assemblyman Ellison:

The buildings that are in that area, are they going to be restricted by the city or county or whomever in this neighborhood? Say the house is falling apart and you want to tear it down and put up another one. Would that be in violation of this new historic area?

Assemblywoman Swank:

That would be up to the local jurisdiction as to how they would fill out the details of their historic ordinance. That is not something that is controlled at the state level because specifically, those types of decisions for a local historic district need to be made by the local jurisdiction. So how things would be decided in Elko, should they decide to put forth an ordinance, could be very different from how they are done in Austin or in Henderson. Each local jurisdiction—and that is really the beauty of these local historic districts—is very locally decided. I can talk about what I know of other ordinances across the country. There is a process for demolition that you go through to get approval from the review board which is usually called a historic preservation commission. I know that in the John S. Park Historic District in Las Vegas, about five years ago there was a home that partially burned and it was vacant and had squatters in it. It was given a demolition permit. So it does happen.

Assemblyman Ellison:

My biggest fear is, you get into some of these and they make them into these historic areas, and then if you want to do any kind of remodeling, then you are restricted in what you can do to remodel—not on the inside but on the outside. Is that correct?

Assemblywoman Swank:

Assemblyman Ellison, that is not correct. This goes back to what the local jurisdiction decides, so it is jurisdiction by jurisdiction. For what I know in the state of Nevada, it is merely the street view of the building. In the City of Las Vegas, they have never turned anyone down. They work with them to make sure they end up meeting their needs and that the home meets their needs and they are able to make the alterations that will work. It is almost always the street view. It is not the interior, and it is not anything like the back of the house that cannot be seen from the street; it is merely the street view. Again, that is really up to the local jurisdiction; that is not in this bill.

Assemblyman Hafen:

I am always appreciative of giving the local municipalities the authority to do things rather than telling people from the state level what to do. Regarding section 1, subsection 1, paragraph (a), specifically where it states that the units must be 40 or more years of age, just a friendly question of whether or not you had considered increasing that to 50 years to coincide with NRS 381.195, the definition of "historic." When NRS 278.0153 was first added to the statute it was 2009, so ten more years have passed by. I was just wondering if you would consider making those consistent or not?

Assemblywoman Swank:

The 50 years was from my bill [[Assembly Bill 194 of the 78th Session](#)] a couple of sessions ago. We have 40 years in here because that was the existing language that was brought in

from NRS Chapter 384. I also think it allows a little more flexibility for local jurisdictions. I think that it generally gives enough time locally, and we do make it so that the bar for getting designation for a local district is a little easier because it is something that is very locally decided. I would be hesitant to change that unless the local jurisdictions were all on board. I would not want to make those changes because I know at least the City of Las Vegas and Clark County's historic preservation ordinances mirror that 40 years, so they would have to make changes to their ordinances also.

Assemblywoman Bilbray-Axelrod:

What exactly is the function of the review board?

Assemblywoman Swank:

The review board is a central body that oversees any changes that need to be made within a historic district. For instance, I live in the Beverly Green Historic District in the City of Las Vegas. If I want to take my garage and turn it back into the carport that it was originally, then that is the first place I go. I submit my application for a permit to the City of Las Vegas. It comes up that I live in a historic district. That is a major change. If it is a very minor change, it does not go to the historic preservation commission, but because that particular project would be a massive alteration to the street view of my home, I would then go in front of the Historic Preservation Commission and explain to them what I want to do. One of the wonderful things about historic preservation commissions is that you are able to get advice on how best to alter your home, and what we see nationally is that interaction between homeowners and historic preservation commissions result in homeowners being happier with their renovation than with their original plan. So it provides a lot of resources for the homeowner to get some really good advice on how best to alter their home. And in the end, we know nationally it makes them happier. It is a really great resource.

I can say that in the City of Las Vegas, their Historic Preservation Commission is staffed by volunteers. They have people from various sectors: a Realtor, someone who knows history, and someone who knows architecture. They have various seats, and then they also have a seat for five at-large members, and those first five are for the first five historic districts. So in my historic district, Beverly Green, Michelle Laramie is our representative on the Historic Preservation Commission. So we get somebody on there who is from our historic district.

It is really this space to provide that interaction for the homeowners in historic districts. This is a volunteer body. I think at the city there are two or three who staff it.

Chair Flores:

Committee members, are there any additional questions? [There were none.] Is there anyone in Carson City or in Las Vegas wishing to speak in support of Assembly Bill 230?

Shani J. Coleman, Deputy Director, Government Affairs, City of Las Vegas:

You have heard the bill's sponsor talk a lot about the City of Las Vegas. In southern Nevada, we have some areas that are historically significant. You heard about John S. Park. We have the Huntridge area. We have the Huntridge Theater and Berkley Square. The city supports

this bill because we understand the importance of these historic neighborhoods, and this bill helps to clarify some of the language as far as creating historic neighborhoods in the City of Las Vegas. We support this and look forward to working with the bill's sponsor on any more historic landmarks and neighborhoods in the City of Las Vegas.

Brian McAnallen, representing City of North Las Vegas:

We are also in support of this bill. If I may take a moment, I would like to thank the sponsor for bringing this and so many other preservation bills forward, both this session and in prior sessions. She is doing a fantastic job, really helping to preserve our history and she should be recognized for that.

With regard to this particular bill, this is permissive for cities and establishes a nice process for a way in which we can do this—calling on public hearings and real community engagement. So I think that communicates something to those who have concerns about this, and we thank the Committee and ask for your support so that we can have one more tool to continue to preserve our culture and history.

David Cherry, Government Affairs Manager, City of Henderson:

We also want to thank the bill's sponsor for bringing this forward, a very thoughtful framework that she is proposing. We appreciate the fact that it is permissive and it gives the cities a lot of ability to structure this in a way that would be most helpful in their own particular preservation goals. We think that Water Street in our downtown of Henderson would really be a beneficiary in looking at the issue of potentially creating an historic preservation ordinance for ourselves that would take into account some of the tools that would be available under this bill. We appreciate your giving us the opportunity to support it. Again, thanks to the sponsor for bringing it forward.

Chair Flores:

Is there anyone else wishing to speak in support of Assembly Bill 230? [There was no one.]
Is there anyone wishing to speak in opposition to Assembly Bill 230?

Sami Real, Planning Manager, Clark County:

I am here to express our opposition but mostly just concerns with the bill as currently written. Clark County does currently have provisions to establish a historic neighborhood within our Clark County code. Currently, we have a portion of one neighborhood within Clark County that has been designated a historic neighborhood. At present, Clark County is working to make the process to establish and to make modifications to homes within a historic neighborhood easier; therefore, we find this proposal to be premature and counter to our current efforts.

Clark County's concerns with the bill as currently written are as follows: the proposed noticing requirements to establish a historic neighborhood requires a weekly ad for three weeks. That is longer so it would be a more lengthy and costly process. A requirement to establish criteria to "substantially achieve" the preservation and protections of the historical significance of sites, buildings, and structures could become onerous for the jurisdictions

creating the policies to implement this NRS provision since the words "substantially achieve" are vague and not all neighborhoods have the same characteristics. In implementing this provision, it also has the potential to be restrictive for property owners wishing to make modifications to their property.

Finally, a proposal to require a designated design review board will require the creation of and support of an additional hearing body which, for Clark County, would only be for limited areas and, in turn, result in the need to hire more staff. Overall, it would be a financial impact to the county. The process defined in the NRS reduces our ability to be flexible with property owners, stakeholders, and any historic review board that may be created for Clark County.

Lastly, and most importantly, we are for historic preservation and we do believe there are areas worthy of being preserved. However, we want to make sure this process does not become a disincentive to preserve these historically significant neighborhoods.

Chair Flores:

Committee members, are there any questions? [There were none.] Is there anyone else wishing to speak in opposition? [There was no one.] Is there anyone wishing to speak in the neutral position? [There was no one.] Assemblywoman, do you have any closing remarks?

Assemblywoman Swank:

If I may address some of the concerns that were voiced by Clark County. As the ordinances are currently set up in Clark County, they are correct. We have one neighborhood that has been designated. I was intimately involved with that designation. Currently, how it works in order to make an alteration to your home in Clark County, homeowners have to ask their neighbors for permission to alter their home. Homeowners have to spend a good amount of money to notice themselves, not the county, that they are thinking about making alterations to the street view of their home. It will end up being too expensive for homeowners. It also leaves homeowners pitted against homeowners, which is why the review board is such an important part of having a historic neighborhood.

As far as guidelines, yes, guidelines would need to be done per neighborhood. We know that Paradise Palms, which has 1960s homes with some amazing butterfly roofs, would have very different design guidelines than the neighborhoods that are in other parts. I am trying to think of Rancho Nevada Estates, which has more conservative rooflines and 1950s homes. But in order to make sure that each of the neighborhoods in each of the historic districts and history is preserved, you do need to have distinct guidelines for each of those neighborhoods. I would say that at this point the big issue for the ordinances laid out under NRS Chapter 278 is a lack of the historic preservation commission, because it sets up an untenable process for neighbors, and that is really what we are trying to fix, and that will definitely benefit Clark County.

Chair Flores:

With that, I would like to close the hearing on Assembly Bill 230 and invite anyone wishing to speak for public comment to come forward. [There was no one.]

This meeting is adjourned [at 10:10 a.m.].

RESPECTFULLY SUBMITTED:

Connie Jo Smith
Committee Secretary

APPROVED BY:

Assemblyman Edgar Flores, Chair

DATE: _____

EXHIBITS

[Exhibit A](#) is the Agenda.

[Exhibit B](#) is the Attendance Roster.

[Exhibit C](#) is a copy of a photograph of a Las Vegas Street, presented by Assemblyman Glen Leavitt, Assembly District No. 23, regarding Assembly Bill 198.

[Exhibit D](#) is a proposed conceptual amendment to Assembly Bill 198, presented by Assemblyman Glen Leavitt, Assembly District No. 23.