

Amendment No. 90

Assembly Amendment to Assembly Bill No. 214	(BDR 22-90)
Proposed by: Assembly Committee on Government Affairs	
Amends: Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

Adoption of this amendment will ADD an unfunded mandate not requested by the affected local government to A.B. 214 (§ 2).

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red-strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.

SLD/ERS



Date: 4/13/2023

A.B. No. 214—Revises provisions governing certain regional transportation commissions. (BDR 22-90)



ASSEMBLY BILL NO. 214—ASSEMBLYWOMAN ANDERSON

FEBRUARY 22, 2023

JOINT SPONSOR: SENATOR DALY

Referred to Committee on Government Affairs

SUMMARY—Revises provisions governing certain regional transportation commissions. (BDR 22-90)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: No.

CONTAINS UNFUNDED MANDATE (§ 2)
(NOT REQUESTED BY AFFECTED LOCAL GOVERNMENT)

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to regional transportation commissions; ~~providing certain eligibility requirements for a person to submit a bid for a high capacity transit system utilizing a turnkey procurement process; providing]~~ **requiring a regional transportation commission in certain counties to establish an advisory committee; revising** certain requirements ~~for the use of an electronic surveillance system;]~~ **relating to the security in operations of a regional transportation commission;** revising certain requirements relating to the establishment of an advisory committee by a regional transportation commission ~~revising certain requirements for a commission to use a turnkey procurement process for a high capacity transit system;]~~ **in certain counties;** and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, a board of county commissioners may by ordinance create a regional transportation commission if a streets and highways plan has been adopted as part of the master plan by the county or regional planning commission. (NRS 277A.170) Existing law authorizes a regional transportation commission to provide for and maintain such security in operations as is necessary for the protection of persons and property. (NRS 277A.260) **Section 2** of this bill authorizes a regional transportation commission to ~~[(1) use an electronic surveillance system to provide and maintain such security in operations; and (2)]~~ establish a fine for a passenger who refuses to comply with a regional or statewide health and safety standard or mandate. **Section 2** further ~~[(1)]~~ requires a regional transportation commission ~~to adopt certain policies and procedures governing the maintenance of records made or recorded by an electronic surveillance system; (2) provides that any record made or recorded by an electronic surveillance system is a public record; and (3) provides that the provisions of section 2 do not supersede the provisions of a collective bargaining agreement.]~~

14 or any person who contracts with a regional transportation commission to operate a
15 public transit system to: (1) maintain any audio or video recording that is used as
16 evidence in certain disciplinary actions or contains an incident on a public transit system
17 that results in an injury to an employee; and (2) upon the request of an employee
18 organization that is the exclusive bargaining agent of the employees of a person who
19 contracts with the regional transportation commission, to provide such audio or video
20 recordings to the employee organization.

21 Existing law requires the regional transportation commission in a county whose
22 population is 700,000 or more (currently only Clark County) to establish an advisory
23 committee to provide certain information and advice to the commission relating to public
24 mass transportation in the county. The advisory committee consists of: (1) two members of
25 the general public from each city within the county who are appointed by the governing body
26 of that city; and (2) six members of the general public appointed by the regional transportation
27 commission. (NRS 277A.340) Section 3 of this bill ~~is~~ instead requires the regional
28 transportation commission to appoint members to the advisory committee. Section 3
29 further provides that the membership of the committee must include: (1) ~~revises the~~
30 population requirement for a county to establish such an advisory committee to be 100,000 or
31 more (currently Clark and Washoe Counties); and (2) requires the appointing authorities to
32 coordinate to ensure that at least two ~~of the~~ members ~~on the advisory committee~~ who
33 are representatives of the employees who work on a public transit system in the county, are not in
34 a supervisory position and are recommended by the principal officers of the employee
35 organization that ~~represent~~ represents such employees ~~is~~

36 ~~Existing law: (1) authorizes a regional transportation commission in a county whose~~
37 ~~population is 700,000 or more (currently only Clark County) to utilize a turnkey procurement~~
38 ~~process to select a person to design, build, finance, operate and maintain, or any combination~~
39 ~~thereof, a high-capacity transit system, including, without limitation, any minimum operable~~
40 ~~segment thereof; and (2) requires the regional transportation commission to evaluate whether~~
41 ~~turnkey procurement is the most cost-effective method of constructing the project on schedule~~
42 ~~and in satisfaction of its transportation objectives. (NRS 277A.450)} ; (2) at least one~~
43 ~~member of the general public; and (3) any other additional members appointed at the~~
44 ~~discretion of the regional transportation commission. Section 3 also authorizes a regional~~
45 ~~transportation commission to assign certain duties of the advisory committee to another~~
46 ~~committee established by the regional transportation commission, provided that the~~
47 ~~membership of the other committee meets the membership requirements for an advisory~~
48 ~~committee.~~

49 Section 1.5 of this bill requires a regional transportation commission in a county
50 whose population is 100,000 or more but less than 700,000 (currently only Washoe
51 County) to establish an advisory committee to provide certain information and advice to
52 the regional transportation commission relating to public mass transportation in the
53 county. Section 1.5 provides that the advisory committee consist of: (1) one member of
54 the general public from each city within the county who is appointed by the governing
55 body of that city; and (2) three members of the general public appointed by the regional
56 transportation commission. Section 1.5 also requires the appointing authorities to
57 coordinate to ensure that at least two of the members on the advisory committee are
58 representatives of the employees who work for the public transit system in the county,
59 are not in a supervisory position and are recommended by the principal officers of the
60 employee organization that represents such employees.

61 Section 6 of this bill ~~requires the regional transportation commission to: (1) evaluate~~
62 whether turnkey procurement is the most cost-effective method of constructing, operating or
63 maintaining the project on schedule and in satisfaction of its transportation objectives in
64 comparison to using the employees of the regional transportation commission; (2) publish a
65 report of its evaluation; and (3) transmit a copy of the report to the Department of
66 Transportation.

67 If a regional transportation commission utilizes a turnkey procurement process for a high-
68 capacity transit system, section 1 of this bill sets forth certain eligibility requirements for a
69 person who submits a bid on or is awarded a contract for the high-capacity transit system.
70 Section 1 also provides: (1) certain requirements for the termination of such a contract; and
71 (2) that if such a contract is terminated, the person is not eligible to submit a bid on or be

awarded a contract or subcontract with the regional transportation commission for a period of time to be determined by the regional transportation commission.

Sections 4, 5 and 7 of this bill make conforming changes to indicate the proper placement of section 1 in the Nevada Revised Statutes.] revises a reference to federal law.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. ~~[Chapter 277A of NRS is hereby amended by adding thereto a new section to read as follows:~~

~~1. If a commission utilizes a turnkey procurement process for a high-capacity transit project pursuant to subsection 1 of NRS 277A.450, any person who bids on or is awarded a contract for the high-capacity transit project or any portion thereof, must agree and provide a statement, in writing, that he or she will:~~

~~(a) Pay the applicable prevailing wage, as determined by the Labor Commissioner pursuant to NRS 338.020, for each worker on the project;~~

~~(b) Provide each worker on the project with written notice of the appropriate prevailing wage rate and maintain a copy of each notice for inspection by the commission;~~

~~(c) Maintain or participate in an apprenticeship program that is registered and approved by the State Apprenticeship Council pursuant to chapter 610 of NRS for each trade or occupation in the workforce of the person for which there is such an apprenticeship program and abide by any requirements of such a program regarding the ratio of apprentices to journeymen;~~

~~(d) Provide a health insurance plan to all employees or similar type of coverage that is comparable in value to the coverage generally provided in the applicable trade or occupation and within the applicable prevailing wage rate for each worker;~~

~~(e) Maintain a policy of industrial insurance for all workers on the project employed by the contractor or subcontractor;~~

~~(f) Not engage in employee misclassification, as defined in NRS 607.216;~~

~~(g) Disclose any previous violation of a labor or employment law;~~

~~(h) Disclose any previous occurrence of a default, lien, liquidated damages or finding of irresponsibility;~~

~~(i) Provide documentation from a previous project demonstrating the quality of work, timeliness of performance and the history of the person in completing projects within the budget; and~~

~~(j) Provide a certified financial statement to demonstrate that the person has adequate resources, credit, insurance and bonds to complete performance of the contract.~~

~~2. A commission that enters into a contract for which a person provided the written statement required pursuant to subsection 1 may terminate such a contract upon a motion by the commission or upon a request submitted to the commission by a member of the public to terminate the contract if:~~

~~(a) The person substantially breaches the contract or fails to comply with the obligations set forth in subsection 1; and~~

~~(b) The commission holds a public hearing within 30 days after the receipt of such a motion or request to terminate the contract.~~

~~3. A person whose contract is terminated pursuant to subsection 2 is not eligible to submit a bid on or be awarded a contract or subcontract with the~~

~~commission for a period of time to be determined by the commission, which must be not less than 1 year and not more than 3 years.~~ (Deleted by amendment.)

Sec. 1.5. Chapter 277A of NRS is hereby amended by adding thereto a new section to read as follows:

1. In a county whose population is 100,000 or more but less than 700,000, the commission shall establish an advisory committee to provide information and advice to the commission concerning the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation in the county and any other related subject as requested by the commission. The membership of the advisory committee must consist of:

(a) One member of the general public from each city within the county who is appointed by the governing body of that city; and

(b) Three members of the general public appointed by the commission.

2. The appointing authorities shall coordinate to ensure that at least two of the members appointed pursuant to paragraphs (a) and (b) of subsection 1:

(a) Are representatives of the employees who work for the public transit system in the county;

(b) Are not in a supervisory position; and

(c) Are recommended by the principal officers of the employee organization that represents such employees.

3. Each member of the advisory committee serves a term of 1 year. A member may be reappointed for additional terms of 1 year in the same manner as the original appointment.

4. A vacancy occurring in the membership of the advisory committee must be filled in the same manner as the original appointment.

5. The advisory committee shall meet at least four times annually.

6. At its first meeting and annually thereafter, the advisory committee shall elect a chair and vice chair from among its members.

7. Each member of the advisory committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses.

Sec. 2. NRS 277A.260 is hereby amended to read as follows:

277A.260 1. A commission may:

~~1.1 (a) Provide for and maintain such security in operations ~~[including, without limitation, an electronic surveillance system,]~~ as is necessary for the protection of persons and property under its jurisdiction and control.~~

~~1.2 (b) Employ professional, technical, clerical and other personnel necessary to carry out the provisions of this chapter.~~

~~1.3 (c) Establish ~~[a fine]~~ fines for a passenger who refuses to ~~[pay]~~:~~

~~(1) Pay or otherwise fails to pay the proper fare to ride on the public transit system established and operated by the commission ~~[]~~; or~~

~~(2) Comply with a regional or statewide health and safety standard or mandate.~~

~~↳ If the commission establishes such ~~[a fine,]~~ fines, the commission may establish procedures that provide for the issuance and collection of the ~~[fine,]~~ fines.~~

~~2. ~~[If a commission provides and maintains an electronic surveillance system on a public transit system, or any portion thereof, pursuant to paragraph (a) of subsection 1, the commission shall establish policies and procedures governing the use of the electronic surveillance system which must, without limitation:~~~~

~~(a) Require the commission to maintain, for at least 90 days, any record made or recorded by an electronic surveillance system;~~

~~(b) Require, upon the request of a labor organization that is the exclusive bargaining agent of the employees of the commission, the production of any record made or recorded within 72 hours after the request is made;~~

~~(c) Require any person who contracts with the commission to operate the public transit system and who uses the electronic surveillance system while performing the duties of such a contract to operate the electronic surveillance system and maintain the records from the electronic surveillance system in accordance with this subsection; and~~

~~(d) Establish disciplinary rules for any employee or contractor who:~~

~~(1) Intentionally manipulates any record made or recorded by the electronic surveillance system; or~~

~~(2) Prematurely erases or destroys a record made or recorded by the electronic surveillance system.~~

~~3. Any record made or recorded by an electronic surveillance system pursuant to this section is a public record which may be requested only on a per incident basis.~~

~~4. This section does not supersede the provisions of a collective bargaining agreement or constitute a waiver of the obligations of an employer to notify and bargain with an exclusive representative of a bargaining unit over an electronic surveillance system or any policy or procedure established by the commission pursuant to this section.~~ The commission or any person who contracts with the commission to operate the public transit system shall:

(a) Maintain, in accordance with all applicable provisions of state and federal law, any audio or video recording that:

(1) Is used as evidence in a disciplinary action involving an employee of any person who contracts with the commission to operate the public transit system; or

(2) Contains an incident on the public transit system that results in an injury to an employee of a person who contracts with the commission to operate the public transit system.

(b) Upon the request of an employee organization that is the exclusive bargaining agent of the employees of a person who contracts with the commission to operate the public transit system, provide the employee organization with any audio or video recording that:

(1) Is used as evidence in a disciplinary action involving an employee of any person who contracts with the commission to operate the public transit system; or

(2) Contains an incident on the public transit system that results in an injury to an employee of a person who contracts with the commission to operate the public transit system, provided that the commission and the person who contracts with the commission to operate the public transit system receive a written request by the employee organization for the audio or video recording within 10 calendar days of the incident.

Sec. 3. NRS 277A.340 is hereby amended to read as follows:

277A.340 1. ~~[(a)]~~ Except as otherwise provided in subsection 8, in a county whose population is ~~700,000~~ 100,000 or more, the commission shall establish an advisory committee to ~~provide~~ :

(a) Provide information and advice to the commission concerning the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation in the county ~~[(a)]~~ ; and

(b) Perform, at the discretion of the commission, any other duties.

2. The commission shall appoint members to the advisory committee. The membership of the advisory committee must consist of:

(a) ~~{Two}~~ At least two members ~~{of the general public or one employee representative appointed pursuant to subsection 2 from each city within the county who are appointed by the governing body of that city; and}~~ who:

(1) Are representatives of the employees who work on the public transit system in the county;

(2) Are not in a supervisory position; and

(3) Are recommended by the principal officers of the employee organization that represents such employees.

(b) ~~{Six members}~~ At least one member of the general public ~~for one employee representative appointed pursuant to subsection 2 appointed by the commission.~~

~~2. The appointing authorities shall coordinate to ensure that at least two of the members appointed pursuant to paragraphs (a) and (b) of subsection 1.~~

~~(a) Are representatives of the employees who work on a public transit system in the county;~~

~~(b) Are not in a supervisory position; and~~

~~(c) Are recommended by the principal officers of the employee organization that represents such employees.~~

(c) Any other additional members appointed at the discretion of the commission.

3. Each member of the advisory committee serves a term of 1 year. A member may be reappointed for additional terms of 1 year in the same manner as the original appointment.

~~{3.}~~ 4. A vacancy occurring in the membership of the advisory committee must be filled in the same manner as the original appointment.

~~{4.}~~ 5. The advisory committee shall meet at least ~~{six}~~ four times annually.

~~{5.}~~ 6. At its first meeting and annually thereafter, the advisory committee shall elect a chair and vice chair from among its members.

~~{6.}~~ 7. Each member of the advisory committee serves without compensation and is not entitled to receive a per diem allowance or travel expenses.

8. If a commission has established other committees, the commission may assign the duty of an advisory committee to provide information and advice to the commission concerning the construction, installation and maintenance of benches, shelters and transit stops for passengers of public mass transportation in the county to another committee, provided that the membership of the other committee meets the requirements of paragraphs (a) and (b) of subsection 2.

Sec. 4. ~~{NRS 277A.400 is hereby amended to read as follows:~~

~~277A.400 As used in NRS 277A.400 to 277A.490, inclusive, "[high capacity] and section 1 of this act:~~

~~1. "High capacity transit" means a public transit system that may provide a higher level of passenger capacity by increasing, without limitation, the number of vehicles utilized by the system, the size of the vehicles, the frequency of vehicle rides, travel speed or any combination thereof, and that operates in conjunction with public transit stations. The term includes, without limitation, bus rapid transit, fixed guideway, light rail transit, commuter rail, streetcar and heavy rail.~~

~~2. "Turnkey procurement" means a competitive procurement process by which a person is selected by a commission, based on evaluation criteria established by the commission, to design, build, operate and maintain, or any combination thereof, a high capacity transit system, or a portion thereof, in accordance with performance criteria and technical specifications established by the commission.~~ (Deleted by amendment.)

1 **Sec. 5.** ~~NRS 277A.410 is hereby amended to read as follows:~~
2 ~~277A.410 The provisions of NRS 277A.400 to 277A.490, inclusive, and~~
3 ~~section 1 of this act apply only to a commission in a county whose population is~~
4 ~~700,000 or more. (Deleted by amendment.)~~

5 **Sec. 6.** NRS 277A.450 is hereby amended to read as follows:

6 277A.450 1. Notwithstanding the provisions of chapter 332 of NRS or NRS
7 625.530, a commission may utilize a turnkey procurement process to select a
8 person to design, build, finance, operate and maintain, or any combination thereof,
9 a high-capacity transit system, including, without limitation, any minimum operable
10 segment thereof. The commission shall determine ~~f, in a public meeting,~~ whether
11 to utilize turnkey procurement for a high-capacity transit project before the
12 completion of the preliminary engineering phase of the project. In making that
13 determination, the commission shall ~~f, in a public meeting,~~ evaluate whether
14 turnkey procurement is the most cost-effective method of constructing ~~f, operating~~
15 ~~or maintaining,~~ the project on schedule and in satisfaction of its transportation
16 objectives ~~in comparison to the cost of using employees of the commission to~~
17 ~~construct, operate or maintain the project. The commission shall publish a report~~
18 ~~explaining its evaluation and transmit a copy of the report to the Department of~~
19 ~~Transportation.~~

20 2. Notwithstanding the provisions of chapter 332 of NRS, a commission may
21 utilize a competitive negotiation procurement process to procure rolling stock for a
22 high-capacity transit project and any other equipment that is related to the project.
23 The award of a contract under such a process must be made to the person whose
24 proposal is determined to be the most advantageous to the commission, based on
25 price and other factors specified in the procurement documents.

26 3. If a commission develops a high-capacity transit project, the Department of
27 Transportation is hereby designated to serve as the oversight agency to ensure
28 compliance with the federal safety regulations for rail fixed guideway **public**
29 **transportation** systems set forth in 49 C.F.R. Part ~~659.1~~ **674**.

30 4. As used in this section :

31 (a) **"Minimum** ~~f, "minimum"~~ operable segment" means the shortest portion of
32 a high-capacity transit system that is technically capable of providing viable public
33 transportation between two end points.

34 (b) **"Turnkey procurement" means a competitive procurement process by**
35 **which a person is selected by a commission, based on evaluation criteria**
36 **established by the commission, to design, build, operate and maintain, or any**
37 **combination thereof, a high-capacity transit system, or a portion thereof, in**
38 **accordance with performance criteria and technical specifications established by the**
39 **commission.**

40 **Sec. 7.** ~~NRS 277A.490 is hereby amended to read as follows:~~
41 ~~277A.490 The proceeds of any tax imposed pursuant to NRS 277A.470 and~~
42 ~~277A.480 must be remitted by the Department of Taxation to the commission for~~
43 ~~use in accordance with the provisions of NRS 277A.400 to 277A.490, inclusive [.] ,~~
44 ~~and section 1 of this act. (Deleted by amendment.)~~

45 **Sec. 8.** **The provisions of NRS 354.599 do not apply to any additional**
46 **expenses of a local government that are related to the provisions of this act.**