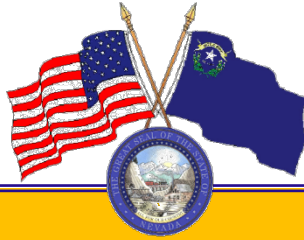


Bulletin No. 11-09



Powers Delegated to Local Governments

Legislative Counsel Bureau



January 2011

POWERS DELEGATED TO LOCAL GOVERNMENTS

BULLETIN NO. 11-09

JANUARY 2011

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SUMMARY OF RECOMMENDATIONS

LEGISLATIVE COMMISSION'S COMMITTEE TO STUDY POWERS DELEGATED TO LOCAL GOVERNMENTS

Senate Bill 264
(Chapter 462, *Statutes of Nevada 2009*)

This summary presents the recommendations approved by the Legislative Commission's Committee to Study Powers Delegated to Local Governments at its final meeting held on June 23, 2010, in Las Vegas, Nevada. The following bill draft requests (BDRs) will be submitted to the 76th Session of the Nevada Legislature in 2011.

RECOMMENDATIONS FOR LEGISLATIVE MEASURES

1. Enact legislation establishing the Nevada Advisory Committee on Intergovernmental Relations. The legislation shall set forth the membership, powers, duties, and reporting requirements of the Nevada Advisory Committee on Intergovernmental Relations. In its June 1, 2010, report to the Committee to Study Powers Delegated to Local Governments, the Interim Technical Advisory Committee for Intergovernmental Relations (ACIR) made a recommendation for the establishment of this permanent advisory committee. **(BDR 19–169)**
2. Enact legislation specifying that a county or city may perform acts or duties that are not prohibited or limited by statute in order to perform the powers conferred to the county or city. **(BDR 20–170)**

NOTE: During discussion on this recommendation, the Committee noted that the State of Indiana's laws and similar provisions in other states (notably the State of Oregon) may provide a suitable model for legislation addressing the granting of certain powers to local governments. Specifically, *Indiana Code* 36-1-3-6 notes that "if there is a constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must do so in that manner." This provision goes on to stipulate that if there is *no* constitutional or statutory provision addressing a particular power, the county or city must adopt, in a manner provided by law, an ordinance prescribing the specific method for exercising that power. *Indiana Code* 36-1-3-8 also lists powers to be withheld from local government control. These include the power to: (a) limit civil liability; (b) impose duties on another political subdivision; (c) impose a tax, unless expressly granted by statute; (d) impose certain license or user fees or service charges; and (e) prescribe criminal penalties and certain criminal fines.

3. Enact legislation authorizing the board of county commissioners of any county or the governing body of any city in Nevada to adopt, by ordinance, procedures for the sale of the naming rights to a park, recreational facility, or other public facility that is owned by the county or city, as well as naming rights for events that may take place at such facilities. **(BDR 28-172)**
4. Reserve a BDR concerning the salaries of elected county officers, which may include amending provisions in Chapter 245 of *Nevada Revised Statutes* (NRS) and other related laws addressing such salaries and/or creating a salary commission or salary compensation task force. **(BDR -173)**

RECOMMENDATIONS FOR COMMITTEE LETTERS AND STATEMENTS

5. Send a Committee letter to the Nevada Association of Counties (NACO) and the Nevada League of Cities and Municipalities (NLCM) for distribution to each county and city in Nevada urging their respective governing boards and other local policy boards to hold more evening meetings to allow greater participation by the public and elected lawmakers.
6. Send a Committee letter to each mayor and chair of a city council of a city in Nevada that operates under a charter and encourage them, if not already practiced, to seek input from the public (through public hearings and outreach activities) regarding suggested charter amendments and consider the creation of a charter committee designed to evaluate potential charter amendments.
7. Send a Committee letter to the chair, vice chair, and members of the ACIR requesting that the ACIR consider and discuss the issues raised in a letter presented to the Committee to Study Powers Delegated to Local Governments during its work session on June 23, 2010. The letter specifically requests that the Legislature consider: (a) removing provisions in Chapter 269 of NRS relating to the appointment of members of Town Advisory Boards and instead provide for their election; (b) authorizing counties to elect a “county mayor” to serve as the presiding officer of the Board of County Commissioners and “be the public face of the county”; and (c) changing the name of Town Boards to Town Councils in an effort to better distinguish Town Boards from Town Advisory Boards. The letter should be copied to NACO, NLCM, and the Board of County Commissioners for Clark County.
8. Include a statement in the final report expressing appreciation to the members of the ACIR, NACO, and NLCM for their efforts throughout the legislative interim in assisting the Committee to Study Powers Delegated to Local Governments. Encourage their continued input and examination of local government powers and home rule during the remainder of the 2009–2010 Interim and during the 2011 Legislative Session.

REPORT TO THE 76TH SESSION OF THE NEVADA LEGISLATURE BY THE LEGISLATIVE COMMISSION'S COMMITTEE TO STUDY POWERS DELEGATED TO LOCAL GOVERNMENTS

I. INTRODUCTION

The Legislative Commission's Committee to Study Powers Delegated to Local Governments was established by Senate Bill 264 of the 2009 Legislative Session (Chapter 462, *Statutes of Nevada*) (see Appendix A). The Committee was charged with: (1) examining the structure, formation, functions, and powers of local governments in the State of Nevada; (2) discussing the feasibility of increasing the powers of local governments; (3) evaluating the fiscal impact to the State of making such changes; (4) reviewing the experiences of states that have rejected "Dillon's Rule," which is the concept that local governments are unable to exercise powers that are not expressly granted to them; and (5) considering recommendations made by the Interim Technical Advisory Committee on Intergovernmental Relations (ACIR).

The original version of S.B. 264 proposed to authorize local governments to impose a property tax, sales and use tax, room tax, fuel tax, and a tax on transfers of real property, and to increase, decrease, or repeal those taxes, for the purpose of carrying out any of its functions. Some members of the 2009 Senate Committee on Government Affairs, to which the measure was initially referred, believed, given the complexity of the topic and the ramifications of the original bill, that a more suitable approach would be to conduct an interim study on the issue of overall powers delegated to local governments in Nevada. Senate Bill 264 was rereferred to the Senate Committee on Legislative Operations and Elections, which further amended the measure to establish the ACIR (as originally presented in S.B. 375 of the 2009 Legislative Session) to serve as a temporary and separate body to address similar issues impacting local governments.

Members

On August 24, 2009, the Legislative Commission appointed the following six legislators (three members of the Senate, and three members of the Assembly) to conduct the interim study as directed by S.B. 264 and report their findings to the 2011 Legislature:

Senator John J. Lee, Chair
Assemblywoman Marilyn Kirkpatrick, Vice Chair
Senator Terry Care
Senator Mike McGinness
Assemblyman Peter (Pete) J. Goicoechea
Assemblyman Tick Segerblom

Staff

The following Legislative Counsel Bureau (LCB) staff members provided support for the Committee:

Michael J. Stewart, Supervising Principal Research Analyst, Research Division
Heidi A. Chlarson, Principal Deputy Legislative Counsel, Legal Division
Natalee M. Binkholder, Deputy Legislative Counsel, Legal Division
Jeanne Peyton, Senior Research Secretary, Research Division

INTERIM TECHNICAL ADVISORY COMMITTEE ON INTERGOVERNMENTAL RELATIONS

Section 9 of S.B. 264 directed the Legislative Commission to appoint an ACIR to foster effective communication, cooperation, and partnerships among State and local government in Nevada with the goal of working to improve the delivery of government services to all Nevadans. The ACIR serves as a forum for the discussion and resolution of intergovernmental challenges and is charged with engaging in numerous activities and conducting studies relating to: (1) local government structure; (2) powers of local government (various functions and fiscal powers); (3) State and local government relationships; (4) the allocation of resources at the State and local levels; and (4) making recommendations for legislation made to the Committee to Study Powers Delegated to Local Governments. The ACIR was directed in S.B. 264 to submit any legislative recommendations to the interim study committee on or before June 1, 2010. Included among those findings must be a recommendation regarding the need for a permanent ACIR. (Please see Appendix C for a copy of the ACIR's report and recommendations to the interim study committee.)

The ACIR played a very active and important role in the interim study committee's deliberations. Each meeting of the Committee to Study Powers Delegated to Local Governments included updates and suggestions from the ACIR.

Members of the Interim Technical Advisory Committee on Intergovernmental Relations

Section 9 of S.B. 264 requires the membership of the ACIR to consist of six local government representatives and three State agency representatives. The Legislative Commission appointed the following members to the ACIR on October 24, 2009:

Nancy Boland, Commissioner, Esmeralda County
Dino DiCianno, Executive Director, Nevada's Department of Taxation
Chris Giunchigliani, Commissioner, Clark County
Susan Holecheck, Mayor, City of Mesquite
David Humke, Commissioner, Washoe County
Debra March, Councilwoman, City of Henderson
Geno Martini, Mayor, City of Sparks

Scott Rawlins, P.E., C.P.M., Deputy Director/Chief Engineer, Nevada's Department of Transportation
Michael J. Willden, Director, Nevada's Department of Health and Human Services

Local government representation was split between county and city representatives and care was taken to ensure that the State agency appointments included representation from those agencies that have a significant relationship with local governments. At the first meeting of the ACIR held January 7, 2010, the ACIR members elected Washoe County Commissioner David Humke as Chair and City of Henderson Councilwoman Debra March as Vice Chair. Wes Henderson, Government Affairs Coordinator, Nevada Association of Counties (NACO), was named Committee Secretary. The ACIR intends to meet regularly through June 2011.¹ For additional information regarding the ACIR, including its meeting schedule and minutes, please refer to the Internet websites of NACO (www.nvnaco.org) and the Nevada League of Cities and Municipalities (NLCM) (www.nvleague.org).

Staff to the Interim Technical Advisory Committee on Intergovernmental Relations

The following personnel provided support for the ACIR:

Jeff Fontaine, Executive Director, NACO
J. David Fraser, Executive Director, NLCM
Wes Henderson, Government Affairs Coordinator, NACO

II. BACKGROUND

The passage of S.B. 264 follows years of discussion and consideration by the Nevada Legislature concerning local government powers and whether such powers (or additional powers) should be conferred to local government, the State, or a combination thereof. The *United States Constitution* remains silent and does not spell out the obligations, duties, or rights of local governments. In fact, the Tenth Amendment of the *United States Constitution* reserves all rights not specifically granted to the federal government to the states for administration:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Therefore, the issue of local government autonomy or control is largely left to each individual state. Indeed, the *Nevada Constitution* (Article 4, Section 25) gives broad authority to the Nevada Legislature to create counties and cities: "The Legislature shall establish a system of County and Township Government which shall be uniform throughout the State." Moreover, the *Nevada Constitution*, in Article 8, Section 8, further sets forth the State's authority over

¹ Pursuant to Section 10 of Senate Bill 264, the ACIR expires by limitation on June 30, 2011.

cities and towns, but does authorize some degree of autonomy to cities and towns by providing for the use of city charters:

The legislature shall provide for the organization of cities and towns by general laws and shall restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, except for procuring supplies of water; *provided, however*, that the legislature may, by general laws, in the manner and to the extent therein provided, permit and authorize the electors of any city or town to frame, adopt and amend a charter for its own government, or to amend any existing charter of such city or town.

No similar charter provisions are set forth for counties and the lack of charter authority for counties in Nevada became a subject of regular discussion by the Committee to Study Powers Delegated to Local Governments (see page 14 of this report).

The authority of local governments to deal with matters of local concern without obtaining State legislative approval is often referred to as home rule. Nevada is not considered a home rule state. Therefore, local governments regularly appear before the Legislature seeking approval or authority to conduct or regulate certain activities. Additional discussion concerning Dillon's Rule and home rule appears below.

A. DILLON'S RULE

The theory of state preeminence over local governments was first expressed by Justice John Dillon in an 1868 Iowa Supreme Court case (*City of Clinton v. Cedar Rapids & M.R.R. Co.*, 24 Iowa 455 (Iowa 1868)), which states:

Municipal corporations owe their origin to, and derive their powers and rights wholly from the Legislature.

In *Merriam v. Moody's Executor*, 25 Iowa 163 (Iowa 1868), a case involving the sale of real property for delinquent taxes under a city charter, Justice Dillon penned what is now known as Dillon's Rule, addressing the types of powers legislatures give to municipalities and what happens if there is some doubt about a municipality's power:

It is a general and undisputed proposition of law that a municipal corporation possesses and can exercise the following powers, and no others: (1) Those granted in express words; (2) Those necessarily or fairly implied in or incident to the powers expressly granted; (3) Those essential to the accomplishment of the declared objects and purposes of the corporation — not simply convenient but indispensable.

Dillon's Rule further holds that "any fair doubt concerning the existence of power is resolved by the courts against the corporation [local government], and the power is denied."

Arguments in Support of Dillon's Rule

During his presentation at the Committee's first meeting on February 18, 2010, Nicolas C. Anthony, Senior Principal Deputy Legislative Counsel, Legal Division, LCB, listed arguments in support of Dillon's Rule, which are set forth below.

- Many have suggested that Dillon's Rule was borne out of the necessity to remove political corruption from municipalities.
- Some scholars have suggested that an added layer of governmental review provides greater protection from inherently corrupt political organizations.
- State-level control ensures greater uniformity, which facilitates economic growth by assuring companies that requirements such as business licenses and methods of taxation will be consistent throughout the state. It has been argued that some state legislatures feel that Dillon's Rule results in a more efficient and fair governance.
- Dillon's Rule also allows a legislature to award new powers to only a few local governments at first, so as to "test" the new powers. If the grant of power proves successful, then the legislature may grant the power to all local governments.
- Some believe Dillon's Rule benefits local government officials by allowing them to use the rule as a political shield. For instance, the citizens may not want increased taxes, but the taxes are necessary for the continued provision of critical services (schools, roads, services, and so on). Under Dillon's Rule, it would be up to the state legislature to impose such tax policy.
- Some suggest that state governments possess more technical expertise and often operate at a more appropriate level for policymaking than local governments.
- Local actions often result in regional or statewide impacts. State oversight may prevent exclusionary and provincial actions by local governments.
- Dillon's Rule provides certainty to local governments. If power is denied, whenever doubtful, litigation will be kept at a minimum in legislative affairs.

B. HOME RULE

In contrast to Dillon's Rule, home rule refers to the concept of local self-governance and the necessary powers granted to the citizens of a local area to structure, organize, and empower their local government. Michigan Supreme Court Justice Thomas M. Cooley first defined home rule in 1872 as "a doctrine that localities have the inherent right for self-governance."

In general, there are four primary areas in which home rule powers are exercised by local governments:

1. Structural—The power to choose the form of government (including the size of the local governing body and the makeup of local government agencies), charter, and enact charter revisions;
2. Functional—The power to exercise programs of local self-government (sometimes referred to as “broad functional” or “limited functional” home rule based on varying degrees of local autonomy);
3. Fiscal—The authority to determine revenue sources, set tax rates, borrow funds, and other related activities; and
4. Personnel—The authority to set employment rules and conditions ranging from remuneration to collective bargaining.

Arguments in Support of Home Rule

During his presentation at the Committee’s first meeting, Mr. Anthony also highlighted the arguments in favor of home rule. These arguments are set forth below.

- Critics of Dillon’s Rule have argued that it imposes unreasonable constraints on the ability of communities to govern themselves and so undermines democracy. Some have argued that local self-government is a matter of “natural right” and does not need to be conferred by higher political structures.
- Under home rule, local citizens can select the form of government they prefer. If citizens want to consolidate or reorganize their public institutions, they can do so without obtaining permission from state officials.
- Local communities are diverse, and home rule allows local citizens to solve their problems in their own fashion. In this manner, decentralization fosters local experimentation, flexibility, innovation, and responsiveness.
- Home rule reduces the amount of time that a state legislature devotes to “local affairs.” Scholars have estimated that in some states, local bills constitute as much as 20 to 25 percent of the legislature’s workload.
- Home rule units with control of their finances place the responsibility for public expenditures on the elected officials of the local jurisdiction, and not on state officials who may be far removed from local activities.

- Under home rule, local officials exercise greater autonomy on a daily basis in running the locality. This frees decisions from the need for preapproval by the state legislature before implementation. State officials do not “second guess” local officials.
- “Liberal construction” of home rule provisions reduces court interference in local policymaking and administration.
- Finally, many have argued that the legislative process amounts to a two-year delay. A local government could consider pressing issues in a more timely fashion. The Nevada Legislature meets every other year, whereas local governments confer and debate the issues of importance to the community on a semiweekly or semimonthly basis.

C. DILLON’S RULE AND HOME RULE IN OTHER STATES—A BRIEF OVERVIEW

One of the charges of the Committee to Study Powers Delegated to Local Governments was to explore Dillon’s Rule and home rule practices in other states. According to research conducted by the National Association of Counties, the National League of Cities, and the Brookings Institution, approximately 40 states operate under Dillon’s Rule (“nonhome rule” states), with 31 of those states considered true or full Dillon’s Rule states that typically have specific constitutional or statutory provisions setting forth the State’s authority over local government powers. Nine states are considered “blended,” where Dillon’s Rule is applied in certain types of municipalities or local entities (i.e., those that do not enter into cooperative agreements, those that are not chartered entities, or those cities that are chartered after a certain date [as is the case in the State of Louisiana]). Finally, ten states are considered “home rule” states, where state laws or state constitutions specifically vest power at the local level.

Initial staff research conducted for the Committee to Study Powers Delegated to Local Governments indicates that it is very difficult to classify, with certainty, the applicability of Dillon’s Rule or home rule in each of the 50 states. Indeed, the legal systems and structure of several states blend various systems—Dillon’s Rule and home rule—and state courts often issue conflicting decisions on this issue. Another interesting observation that local government scholars have found is that there appears to be no geographic or regional trends with respect to the use or nonuse of Dillon’s Rule. States operating under Dillon’s Rule are found scattered throughout the Northeast, Midwest, South, and West—just as are states using more forms of liberal construction of home rule provisions. The states using Dillon’s Rule for only certain types of municipalities appear to be generally clustered in the Midwest and South-Central states. Generally, however, judicial attitudes as well as constitutional and legislative priorities, not regional trends, tend to influence the adoption and use of the principles of Dillon’s Rule.²

² Jesse J. Richardson, Jr., Meghan Zimmerman, and Robert Puentes, *Is Home Rule the Answer? Clarifying the Influence of Dillon’s Rule on Growth Management*, The Brookings Institution, 2003.

Some local government scholars who have reviewed case law relating to home rule and Dillon's Rule also note that no clear trends exist concerning Dillon's Rule except for the maintenance of the status quo—little has changed with regard to its application among the states for some time. The state supreme court that last rejected Dillon's Rule was the State of Utah in 1980, when the court called Dillon's Rule “unresponsive to the current needs of both state and local governments.” The court also opined that “adequate protection against abuse of power or interference with legitimate statewide interests is provided by the electorate, state supervisory control, and judicial review.”³

Meanwhile, others have observed a more recent increase in the granting of home rule powers to local government. During recent challenging economic conditions, some state legislatures have considered shifting certain powers from the state to local governments where, at least in some states, raising the revenue to pay for such services is better achieved locally. Moreover, there appears to be some recognition by state-level officials that shifting power and responsibility to local governments may result in a more responsive and more streamlined provision of certain services.

In summary, the application of Dillon's Rule and home rule is varied nationwide. Most states operate under a “nonhome rule” scenario; however, it is clear that the level of autonomy granted to local governments varies greatly from state to state. Even when home rule is granted to local governments, it appears that much of these powers ultimately do fall under the oversight of state legislatures and can be revoked or modified at the discretion of the state.

Summary of Dillon's Rule/Home Rule and Local Government Structure in the Western United States

In reviewing several western states, Alaska, Montana, New Mexico, Oregon, and Utah are considered “classic” home rule states, while California and Colorado have more of a mixed or blended system of Dillon's Rule and home rule powers and government structure depending on the type of local government. Meanwhile, in addition to Nevada, Arizona, Hawaii, Idaho, Washington, and Wyoming are considered Dillon's Rule states. (See Appendix D for summary information from the National Association of Counties regarding these states.)

A recent study conducted by researchers at the George Washington Institute of Public Policy at the George Washington University ranks Nevada 49th out of 50 states in “local government structural and functional responsibility, and legal scope.” This particular ranking, which focuses strictly on structural and functional autonomy, also lists the Dillon's Rule states of Idaho, Hawaii, Washington, Arizona, and Wyoming as 47th, 46th, 45th, 30th, and 26th out of the 50 states. The “classic” home rule states in the western United States have significantly more autonomy and are ranked as follows: Alaska (1); Utah (2); New Mexico (4); Montana

³ Ibid.

(6); and Oregon (14). The mixed or blended states of California and Colorado rank 13th and 8th, respectively.⁴

In reviewing an overall score and ranking of local government autonomy, the researchers examined numerous factors equally, including: (1) local government outputs and revenue; (2) unconstrained local revenue; (3) diversity of local revenue; (4) local public employment in relation to the state and intergovernmental systems; and (5) limits on taxation, spending, and debt. This overall ranking shows little correlation between the structural and functional home rule as set forth in state law and certain other factors. Nevada and Alaska, for example—49th and 1st respectively, in structural and functional autonomy from the state—rank 23rd and 24th in the overall local autonomy rankings when the researchers combined all factors and weighted them equally.⁵

This research appears to demonstrate further that the level of autonomy granted to local governments varies greatly from state to state and can fluctuate based on different fiscal, personnel, structural, and functional factors.

III. SUMMARY OF COMMITTEE ACTIVITIES

The Committee held three meetings, including a work session, during the course of the interim study. All meetings were held in Las Vegas and simultaneously videoconferenced to the Legislative Building in Carson City. Topics addressed included:

- Home rule and Dillon’s Rule in Nevada and other states;
- General local government powers and functions in Nevada and other states;
- The granting of greater home rule powers to local governments in Nevada;
- Activities and scope of the ACIR, including reviews of ACIR recommendations;
- Local elected official salaries;
- Naming rights for local governments;
- Parity issues between county and city governments in Nevada;
- The process by which city charters are created and amended, including the use of “charter committees” for reviewing and analyzing proposed charter amendments;
- The possible use of charters by counties in Nevada;
- County/city consolidation issues;
- Comparisons between general law and charter forms of municipal government in Nevada; and
- Citizen involvement and participation in local government activities and decision making.

⁴ Hal Wolman, Robert McManmon, Michael Bell, and David Brunori, “Comparing Local Government Autonomy Across States (Paper Presented at National Tax Association Conference, Philadelphia, Nov. 21, 2008; Revised December 4, 2008),” George Washington Institute of Public Policy, The George Washington University, 2008.

⁵ Ibid.

The Committee's approach was to select topics of discussion that were informative and consider action on those items that might achieve some success during the 2011 Legislative Session, particularly in light of the fiscal challenges facing Nevada and its local governments over the past several years. Moreover, Nevada's body of law that generally favors the Dillon's Rule approach is long-standing and Committee members and other meeting participants generally agreed that incremental changes that, over time, gradually shift some powers to local governments is likely more feasible than a "flipping the switch" approach to local government powers. The Committee members and local government representatives unanimously agreed early on in the interim study that attempting wholesale changes authorizing "fiscal home rule" would not be possible at this time.

Below is a summary of the Committee's activities at each of its three meetings. Additional details of each meeting can be found in the "Summary Minutes and Action Report" for each meeting.⁶

A. FEBRUARY 18, 2010, MEETING

During the first meeting of the Committee to Study Powers Delegated to Local Governments, Michael J. Stewart, Supervising Principal Research Analyst, LCB, provided an overview of S.B. 264 of the 2009 Legislative Session, which authorized the interim study and the creation of the ACIR. This was followed by a general overview of home rule and various local government powers in Nevada by Nicolas C. Anthony, Senior Principal Deputy Legislative Counsel, LCB. Mr. Anthony highlighted the legal parameters of county and city government powers in Nevada and detailed the scope of Nevada's "nonhome rule" status. Mr. Stewart then reviewed numerous documents highlighting certain local government powers and home rule provisions in other states.

A panel consisting of Debra March, Vice Chair, ACIR; Jeff Fontaine and Wes Henderson of NACO; and J. David Fraser, NLCM, reviewed the activities and scope of the ACIR and commented on anticipated recommendations and topics under consideration by the ACIR. Chair Lee and Ms. March agreed that the Committee and the ACIR would work together to develop topics for future deliberation and subsequent recommendations for consideration by the 2011 Nevada Legislature. Warren B. Hardy II, former State Senator and Assemblyman, and Past Chair of the Senate Committee on Government Affairs, continued the discussion regarding local government powers in Nevada and offered several suggestions for possible changes to current practices that could grant greater autonomy and self-governance for local governments in Nevada.

Discussion ensued on a number of specific local government powers and operations that may be suitable for the Legislature, through specific legislation, to grant greater local control. These topics included: (1) the setting of local elected official salaries, as discussed by Senator Terry Care, Mr. Stewart, NACO, and a representative from Humboldt County; (2) naming rights, as addressed by Chair Lee and Constance Brooks, Senior Management

⁶ See <http://leg.state.nv.us/Interim/75th2009/Committee/Scheduler/committeeIndex.cfm?ID=55>.

Analyst, Clark County; (3) parity issues between county and city governments, as discussed by NACO and Kent Maher, City Attorney for the Cities of Lovelock and Winnemucca; (4) city charter issues, as addressed by the NLCM and representatives from Carson City and the City of Sparks; and (5) the possible use of charters by counties in Nevada, as set forth by NACO. Finally, the Committee heard a presentation from Ted Olivas, Director of Administrative Services, City of Las Vegas, and John Slaughter, Director of Management Services, Washoe County, concerning consolidation efforts in Clark and Washoe Counties.

B. APRIL 22, 2010, MEETING

At the Committee's second meeting, members heard from Alvin P. Kramer, Treasurer, Carson City, and Alan Glover, Clerk-Recorder, Carson City, who addressed the issue of setting salaries for local elected county officials. Constance Brooks, Jeff Fontaine, and Allen Veil of the Lyon County Sheriff's Office and representing the Nevada Sheriffs' and Chiefs' Association, also commented on the salary issue. In general, there was an overall agreement that, while a constitutional amendment removing the requirement authorizing the Legislature to set salaries for locally elected county officials lacked general support, certain statutory adjustments could be made to set a standard timetable for considering such salaries and ensuring fairness among the local elected officials.

This was followed by a presentation from Steve Driscoll, Assistant City Manager, City of Sparks, who highlighted the differences and similarities between general law and charter forms of municipal government in Nevada. The Committee then heard from David Humke, Chair, ACIR, and Chair, Board of County Commissioners, Washoe County, as well as Jeff Fontaine and J. David Fraser concerning the activities and anticipated recommendations of the ACIR. Among the recommendations discussed were the possible establishment of a permanent ACIR in Nevada and the possible authorization of Nevada's counties to operate under individual charters. Mr. Fontaine addressed the first potential recommendation concerning a permanent ACIR and highlighted similar ACIR structures in other states, while Wes Henderson briefed the Committee on the use of county charters in other states and potential ways to establish county charters in Nevada.

Mr. Fraser and Mr. Fontaine then discussed possible approaches to address "functional" home rule in Nevada through legislation. They noted that the ACIR recommended the drafting of such legislation to provide greater autonomy for local governments for more "day-to-day" functions such as county office hours, certain business licensing, and traffic control. Mr. Fraser and Mr. Fontaine noted that surveys regarding "functional" home rule were sent to their respective member entities and responses were forthcoming. The Committee also heard a brief overview from Constance Brooks regarding Clark County's ordinance concerning naming rights. Finally, the Committee heard from Knight Allen, private citizen, who offered suggestions to the Committee concerning local elected official salaries and expressed concerns about the establishment of a permanent ACIR for Nevada.

C. JUNE 23, 2010, FINAL MEETING AND WORK SESSION

The third and final meeting of the Committee included a review of the activities and recommendations of the ACIR from Debra March, Vice Chair, ACIR; J. David Fraser, Executive Director, NLCM; and Wes Henderson, Government Affairs Coordinator, NACO. Under the public comment periods, the Committee heard from Jordan Ross, Editor of *The Laughlin Herald*, who discussed a proposal to allow town boards to be elected by the voters rather than being appointed by the Board of County Commissioners. Mr. Ross also proposed that counties elect a “mayor at large.” Also under public comment, Knight Allen, private citizen, thanked the Committee for allowing him to participate in the Committee’s activities throughout the legislative interim.

The Committee took action on numerous recommendations set forth in the final “Work Session Document.” Further discussion of the recommendations approved during the work session phase of this meeting are discussed in Section IV of this report.

IV. RECOMMENDATIONS AND SUMMARY OF TOPICS DISCUSSED BY THE COMMITTEE DURING THE 2009–2010 LEGISLATIVE INTERIM

During the course of the 2009–2010 Legislative Interim, the Legislative Commission’s Committee to Study Powers Delegated to Local Governments was provided with formal presentations and expert and public testimony on a broad range of topics. This section of the report highlights some of those subjects explored by the Committee and summarizes the recommendations unanimously approved during the interim by the Committee. The subsequent bill draft requests (BDRs) will be submitted to the 76th Session of the Nevada Legislature in 2011. Copies of letters sent on behalf of the Committee appear in Appendix F of this report.

Creation of the Nevada Advisory Committee on Intergovernmental Relations

During the course of the interim study, the Committee received regular updates from the ACIR on its activities and deliberations. The Committee also heard a report concerning the history of permanent ACIRs in other states as well as the potential benefits of a permanent ACIR for Nevada. At its meeting on April 22, 2010, the Committee heard a presentation from Jeff Fontaine, Executive Director, NACO, who reported that in 1997, a report was produced by a fiscal working group of the Regional Planning Governing Board of the Truckee Meadows Regional Planning Agency, which evaluated the need for an Advisory Committee on Intergovernmental Relations. It was determined at that time that such a committee should be created through legislation. While the legislation was never drafted, Mr. Fontaine noted that NACO continues to be a strong supporter of a permanent ACIR for Nevada. Mr. Fontaine further noted that nine states have formally established ACIRs, two of which—North Dakota and Texas—have state legislatures that meet biennially. The permanent ACIRs in Florida and Texas are housed within the legislative branch. For more information regarding

Advisory Committees on Intergovernmental Relations in other states, please see the “Summary Minutes and Action Report” of the April 22, 2010, meeting of the Legislative Commission’s Committee to Study Powers Delegated to Local Governments.

In addition to Mr. Fontaine’s testimony, others supported the creation of a permanent ACIR, including the ACIR as part of its formal recommendations to the interim study committee (please see Appendix C). Therefore, the Legislative Commission’s Committee to Study Powers Delegated to Local Governments voted to:

**Request the drafting of a bill to establish the Nevada Advisory Committee on Intergovernmental Relations as recommended, in part, by the ACIR.⁷
(BDR 19–169)**

In making this recommendation, the Committee noted that at the June 14, 2010, meeting of the Committee to Consult with the Director (*Nevada Revised Statutes* [NRS] 218E.225), members of that Committee heard a presentation and considered a possible option to restructure the “interim” activities of the Nevada Legislature. Discussion included the possibility of eliminating the statutory committee structure as set forth in Chapter 218E of NRS and maintaining the session standing committee structure during the legislative interim to address topics within each standing committee’s jurisdiction. At a subsequent meeting of the Committee to Consult with the Director (December 6, 2010), a formal recommendation was made to pursue a BDR regarding this restructuring.

Anticipating this action by the Committee to Consult with the Director, the Committee to Study Powers Delegated to Local Governments voted to adopt the recommendation for a permanent ACIR as suggested by the ACIR and include the following additional language and provisions:

- Specify that a legislator must **not** serve as Chair of the permanent Nevada Advisory Committee on Intergovernmental Relations;
- Provide that the Nevada Advisory Committee on Intergovernmental Relations submit its recommendations for BDRs to the Chairs of the Senate and Assembly Committees on Government Affairs on or before September 1 of each year preceding a regular session of the Legislature; and
- Specify that NACO and the NLCM shall provide the Nevada Advisory Committee on Intergovernmental Relations with staff support.⁸

⁷ Section 9, subsection 7, of S.B. 264 requires the ACIR to include in its report to the Committee to Study Powers Delegated to Local Governments a recommendation concerning the need for a permanent Nevada Advisory Committee on Intergovernmental Relations. In its report to the Committee, the ACIR made a recommendation for the establishment of a permanent Nevada Advisory Committee on Intergovernmental Relations.

⁸ It should be noted that pursuant to subsection 5 of NRS 218E.205, unless otherwise provided in statute, “the staff of the Legislative Counsel Bureau shall not serve as primary administrative or professional staff for a committee unless the chair of the committee is required by statute or resolution to be a Legislator.”

Authorizing Counties to Adopt a Charter as Directed by the Nevada Legislature

Members of the Committee to Study Powers Delegated to Local Governments received a report concerning the use and authorization of charters (similar to city charters) for county operations. According to the National Association of Counties, 23 states authorize their counties to create and operate under a county charter. As noted earlier, Article 8, Section 8, of the *Nevada Constitution* provides for use of charters by certain incorporated cities. There are no such provisions relating to counties in Nevada. According to the National Association of Counties, “while charter status [for counties] can bestow a vast number of reforms, it does not guarantee powers in all three domains [structural, functional, and fiscal]; many charter provisions prohibit certain types of reforms (e.g., fiscal) and established powers can be limited further in the construction of specific charters.” Typical provisions found in county charters include the authorization to select county officers, the duties of elected county officers, local elected official salaries, and the size of local governing bodies.

In 1999, according to the National Association of Counties, 1,254 counties nationwide (out of 3,060 total counties) were authorized to operate under some form of county charter. Of these counties, 149 (11.9 percent of eligible counties) had chosen to establish some sort of charter. The ACIR recommended that the Committee request the drafting of a bill amending the *Nevada Constitution* authorizing the use of county charters. However, the Committee chose not to pursue the recommendation at its final meeting and work session. For more information, please refer to the National Association of Counties publication titled, *County Charter Government in the West*. A copy of this publication is available at the Research Library, Research Division, LCB (775/684-6827).

Granting Certain Powers to Local Governments

As noted earlier, Nevada is considered a Dillon’s Rule state, whereby local governments are only able to exercise powers that are expressly granted to them in Nevada law. Throughout the interim, numerous representatives of local governments expressed a desire to enhance local government control over certain aspects of local government operations. Many indicated that taking an incremental approach—allowing local governments to initially “test the waters” with limited local government control over “day-to-day” functions (functional home rule)—would be a suitable approach to an initial BDR on this issue. Indeed, in its final report to the Committee, the ACIR requested that legislation be drafted providing for functional home rule under certain circumstances:

The ACIR was unanimous in support of legislation granting functional home rule to local governments in Nevada. The committee determined that a general approach should be taken to grant this authority to local governments. This would allow local governments the authority to take actions that are not prohibited or limited by statute . . . As Nevada is considered a Dillon’s Rule state, courts, city attorneys and county district attorneys have ruled and opined

that local governments may not take any action or possess any authority that has not been expressly granted by the Legislature. Given that the Legislature only meets once per biennium, local governments often face a two-year delay in obtaining authority over issues of local concern. This process can negatively impact the daily operations of local governments as well as unnecessarily cause the Legislature to waste valuable time dealing with local issues. Inserting language in existing statutes granting local governments the authority to take actions that are not prohibited or limited by statute would provide clear intent to the courts and the attorneys that serve Nevada's local government bodies, while preserving the Legislature's rightful ability to prohibit or limit local government authority.

Members of the Committee to Study Powers Delegated to Local Governments and presenters were clear that providing for fiscal, structural, or personnel-related home rule in a BDR at this time might be too challenging, especially given the current economic situation. However, there appeared to be consensus that giving local governments the power to address day-to-day functions—particularly with regard to those powers not already prohibited or limited by statute—may be helpful.

Therefore, the Legislative Commission's Committee to Study Powers Delegated to Local Governments voted to:

Request the drafting of a bill specifying that a county or city may perform acts or duties that are not prohibited or limited by statute in order to perform the powers conferred to the county or city.⁹ (BDR 20–170)

Naming Rights for Certain Local Government Facilities

During the 2007 Legislative Session, the Nevada Legislature approved Senate Bill 497 (Chapter 444, *Statutes of Nevada*), which authorized the Clark County Board of Commissioners to adopt, by ordinance, procedures for the sale of the naming rights to the shooting range owned by the County, including its buildings, improvements, facilities, and events. The measure also provided for the creation of an enterprise fund exclusively for the proceeds of naming rights, fees, gifts, grants, or other sources of funds received by the shooting range. In 2009, the Legislature approved Assembly Bill 52 (Chapter 469, *Statutes of*

⁹ During discussion on this item at the work session, Committee members noted that Indiana law may provide a suitable model for legislation addressing the granting of certain powers to local governments. Specifically, *Indiana Code* 36-1-3-6 notes that “if there is a constitutional or statutory provision requiring a specific manner for exercising a power, a unit wanting to exercise the power must do so in that manner.” This provision goes on to stipulate that if there is *no* constitutional or statutory provision addressing a particular power, the county or city must adopt, in a manner provided by law, an ordinance prescribing the specific method for exercising that power. *Indiana Code* 36-1-3-8 also lists powers to be withheld from local government control. These include the power to: (a) limit civil liability; (b) impose duties on another political subdivision; (c) impose a tax, unless expressly granted by statute; (d) impose certain license or user fees or service charges; and (e) prescribe criminal penalties and certain criminal fines.

Nevada), which also authorized boards of county commissioners to adopt ordinances relating to the lease of naming rights for property and events in public hospitals.

Clark County has adopted ordinances specifically addressing the naming program for the Clark County Shooting Park (Chapter 19.09, *Clark County, Nevada, Code of Ordinances*). The ordinances provide that: (1) names must be considered in accordance with appropriate and acceptable community standards; (2) Clark County, through its Board of County Commissioners, reserves the right to reject any name at any time; (3) the naming privileges will not exceed a maximum duration of 20 years, and the duration of naming privileges is subject to fees and charges as approved by the Board; (4) naming privileges for activities and programs will last for the duration of the activities or for a one-year term; and (5) approval of names and all fees are established by the Board. Similar ordinances regarding the naming rights for the University Medical Center have also been drafted and include provisions allowing the Board of County Commissioners to revoke a name if necessary. According to Constance Brooks, Senior Management Analyst, Clark County, providing local governments with the power to sell naming rights for certain facilities: (1) is financially beneficial to local governments; (2) supports the community and other organizations to be involved and actively participate in social capital; and (3) gives residents and organizations the opportunity to participate in the development of local government activities and programs.

Therefore, the Legislative Commission's Committee to Study Powers Delegated to Local Governments voted to:

Request the drafting of a bill authorizing the board of county commissioners of any county or the governing body of any city in Nevada to adopt, by ordinance, procedures for the sale of the naming rights to a park, recreational facility, or other public facility that is owned by the county or city, as well as naming rights for events that may take place at such facilities. (BDR 28-172)

During discussion on this recommendation, the Committee agreed to allow each local government to craft its naming rights ordinance as it deems necessary. Members further noted that Clark County's naming rights ordinances serve as a good model.

Salaries for Certain Local Elected Officials

During the course of the interim, the Committee discussed the process by which the Nevada Legislature sets the annual salaries for certain elected county officials as set forth in NRS 245.043. Some Committee members expressed a desire to authorize each county commission to set the salaries for their own county elected officers. Committee members noted that the Commissioners themselves are more familiar with available county revenue and, as a result, might be better suited to make an informed decision concerning salaries. However, testimony from some county elected officials and their respective organizations revealed notable concern over such a proposal. Some local elected officials expressed concern about the

potential for lack of salary parity among the elected officials and expressed a desire for the elected county offices to have autonomy from the board of county commissioners. The following suggestions were considered during the work session by members of the Committee to Study Powers Delegated to Local Governments:

- Amend NRS 245.043 with a new set of salaries for the next four fiscal years (FYs). Future salary increases may be tied to a certain set percentage or an indexed rate, such as the Consumer Price Index. The current salary schedule in NRS 245.043 is set through FY 2010–2011;
- Continue the waiver process set forth in S.B. 516 (Chapter 455, *Statutes of Nevada*) of the 2007 Legislative Session;
- Establish a similar process that authorizes counties to apply for a waiver from the longevity payments to certain elected county officers set forth in NRS 245.044;
- Either retain the current county classifications for salary categories as set forth in NRS 245.043 **OR** reclassify and group the counties by population and set an amended rate of compensation accordingly. Include in a single category those counties whose population is 40,000 or less;¹⁰ and
- Amend Chapter 245 of NRS by adding new language creating a salary commission or salary compensation task force charged with making periodic recommendations to the Nevada Legislature concerning the salaries including, but not limited to, the appropriate level of compensation of elected county officers.

Additional background information regarding the salaries of local elected officials, including a table of salaries since 1979, can be found in Exhibit F of the “Summary Minutes and Action Report” of the Committee’s meeting held on February 18, 2010.¹¹

While Committee members did not agree on a specific recommendation regarding elected county officer salaries, they did agree to:

Reserve a BDR concerning the salaries of elected county officers, which may include amending provisions in Chapter 245 of NRS and other related laws addressing such salaries and/or creating a salary commission or salary compensation task force. (BDR –173)

In “reserving” this BDR, the Committee members invited interested local government representatives and others to further study possible legislative options relating to the salaries of elected county officials. If an agreeable legislative approach among the interested parties is

¹⁰ Counties whose populations are 40,000 or less as of July 1, 2009 (as estimated by the State Demographer) are: Churchill, Esmeralda, Eureka, Humboldt, Lander, Lincoln, Mineral, Pershing, Storey, and White Pine.

¹¹ Please refer to <http://www.leg.state.nv.us/Interim/75th2009/Exhibits/LocalGov/E021810F.pdf>.

reached, the Committee will provide those details to the Committee Counsel for drafting. To date, no specific recommendations have been submitted for the drafting of this BDR.

Public Involvement and Participation in Local Government Activities

Throughout the legislative interim, Committee members and presenters before the Committee noted the importance of open government and the involvement of citizens, fellow elected officials, legislators, business owners, and other interested individuals in local policymaking. Some Committee members explained that while some local policy boards hold public meetings during the evening hours (when, presumably, more members of the public are able to attend), many conduct their public meetings during the day. Therefore, the Legislative Commission's Committee to Study Powers Delegated to Local Governments voted to:

Send a Committee letter to the Nevada Association of Counties and the Nevada League of Cities and Municipalities for distribution to each county and city in Nevada urging their respective governing boards and other local policy boards to hold more evening meetings to allow greater participation by the public and elected lawmakers.

Charter Committees or Formal Public Processes to Review Proposed City Charter Amendments

During the course of the legislative interim, the Committee reviewed the process by which city charters are amended. Charter changes for the 12 "charter cities" are often made through legislation considered and approved by the Nevada Legislature. Charter amendments may also be made through a citizen petition process as set forth in NRS 266.010. Committee members heard testimony indicating that some cities utilize a charter committee or other public body to thoroughly review proposed charter amendments and seek public input. Committee members expressed appreciation knowing that legislation proposing city charter amendments has been agreed to by the mayor and city council. Moreover, during testimony on such legislation, legislators often ask whether the proposed charter amendments have been presented during public hearings, included as part of public outreach activities, or vetted through a charter committee or a city charter review board.

The City of Sparks utilizes the Sparks Charter Committee and Carson City has a Charter Review Committee (both of which are set forth in their respective charters) to discuss and evaluate necessary changes to the governing charter (see Appendix E). The Committee to Study Powers Delegated to Local Governments believes this may be a good model for other cities to consider. Therefore, the Committee voted to:

Send a Committee letter to each mayor and chair of a city council of a city in Nevada that operates under a charter and encourage them, if not already practiced, to seek input from the public (through public hearings and outreach activities) regarding suggested charter amendments and consider the creation of a charter committee designed to evaluate potential charter amendments.

During its final meeting, the Committee to Study Powers Delegated to Local Governments heard from Mr. Jordan Ross, a Laughlin, Nevada, resident, who presented a letter and raised a number of issues relating to local government powers and functions. Specifically, the letter requests that the Legislature consider: (1) removing provisions in Chapter 269 of NRS relating to the appointment of members of Town Advisory Boards and instead provide for their election; (2) authorizing counties to elect a “county mayor” to serve as the presiding officer of the Board of County Commissioners and “be the public face of the county”; and (3) changing the name of Town Boards to Town Councils in an effort to better distinguish Town Boards from Town Advisory Boards.

The Committee was very appreciative and intrigued by the issues Mr. Ross raised. Unfortunately, given the time constraints, the Committee was not able to adequately and fully examine his requests for legislative changes. Therefore, the Committee to Study Powers Delegated to Local Governments voted to:

Send a Committee letter to the chair, vice chair, and members of the Advisory Committee for Intergovernmental Relations (ACIR) requesting that the ACIR consider and discuss the issues raised in Mr. Ross’ letter presented to the Committee to Study Powers Delegated to Local Governments during its work session on June 23, 2010. The letter is to be copied to the Nevada Association of Counties (NACO), Nevada League of Cities and Municipalities (NLCM), and the Board of County Commissioners for Clark County.

Subsequent to the receipt of the letter, the ACIR included Mr. Ross on their meeting agenda on July 22, 2010. Some members of the ACIR determined that the issues Mr. Ross raised might be better addressed at the county level.

Appreciation to the ACIR, NACO, and NLCM

Throughout the course of the 2009–2010 Legislative Interim and in preparation for each meeting of the Committee to Study Powers Delegated to Local Governments, the ACIR, NACO, and the NLCM, provided valuable assistance to the Committee and staff. Their contributions to the Committee are greatly appreciated. Therefore, the Committee voted to:

Include a statement in the final report expressing appreciation to the members of the ACIR, NACO, and NLCM for their efforts throughout the

legislative interim in assisting the Committee to Study Powers Delegated to Local Governments. The Committee encourages the ACIR, NACO, and NLCM to continue providing input and examining local government powers and home rule during the 2011 Legislative Session and beyond.

V. CONCLUDING REMARKS

The Legislative Commission's Committee to Study Powers Delegated to Local Governments would like to thank all the State and local government elected officials and representatives, interested private citizens, the ACIR, NACO, and the NLCM for their generous assistance throughout the 2009–2010 Legislative Interim. The Committee members sincerely appreciate the expertise and recommendations of those who gave of their time to make the study as comprehensive and thorough as possible. This interim study would not have been possible without their kind assistance and cooperation.

VI. APPENDICES

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APPENDIX A

Senate Bill 264 (Chapter 462, *Statutes of Nevada 2009*)

Senate Bill 264
(Chapter 462, *Statutes of Nevada 2009*)

Senate Bill No. 264—Senator Care

CHAPTER.....

AN ACT relating to local governmental administration; directing the Legislative Commission to conduct an interim study of the powers delegated to local governments; requiring the Legislative Commission to appoint an Interim Technical Advisory Committee for Intergovernmental Relations; providing for the administration and specifying the duties of the Interim Technical Advisory Committee; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Section 8 of this bill directs the Legislative Commission to conduct an interim study concerning the powers delegated to local governments, including the feasibility of increasing the powers of local governments related to taxation.

Section 9 of this bill requires the Legislative Commission to appoint an Interim Technical Advisory Committee for Intergovernmental Relations, composed of six representatives of local governments and three representatives of state agencies. The purpose of the committee is to foster communication and cooperation among the State Government and local governments. The Committee is charged with serving as a forum for discussion among governments, engaging in activities and conducting studies on issues relating to state and local governments, and reporting to the interim committee appointed pursuant to **section 8** of this bill.

WHEREAS, In 1868, Judge John F. Dillon of the Iowa Supreme Court established in *Merriam v. Moody's Executors*, 25 Iowa 163 (1868), a common law rule of statutory interpretation known as Dillon's Rule, which limits the powers of local governments; and

WHEREAS, Under Dillon's Rule, a local government possesses and can exercise only those powers which are: (1) granted in express words; (2) necessarily or fairly implied in or incident to the powers expressly granted; or (3) essential to the accomplishment of the declared objects and purposes of the local government and which are not simply convenient, but indispensable; and

WHEREAS, The Nevada Supreme Court has cited Dillon's Rule in several opinions; and

WHEREAS, Allowing greater autonomy for local governments in this State may promote more efficient use of limited governmental resources; now, therefore,



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

Sections 1-7. (Deleted by amendment.)

Sec. 8. 1. The Legislative Commission shall appoint an interim committee to conduct a study of the powers of local governments in this State. The study must include, without limitation:

(a) An examination of:

(1) The structure, formation, function and powers of local governments in this State;

(2) The potential fiscal impact in this State resulting from abolishing Dillon's Rule;

(3) The feasibility of increasing the powers of local governments in this State; and

~~[(d)]~~ (4) The experiences of states that have rejected Dillon's Rule ~~[(4)]~~; and

(b) *The consideration of any recommendations submitted to the interim committee pursuant to section 9 of this act.*

2. The interim committee must be composed of six Legislators, one of whom must be appointed as Chairman of the committee, as follows:

(a) The Chairman of the Senate Standing Committee on Government Affairs;

(b) The Chairman of the Assembly Standing Committee on Government Affairs;

(c) One member appointed by the Majority Leader of the Senate;

(d) One member appointed by the Minority Leader of the Senate;

(e) One member appointed by the Speaker of the Assembly; and

(f) One member appointed by the Minority Leader of the Assembly.

3. To assist with the study, the Chairman of the interim committee may appoint a technical advisory committee consisting of representatives of local governments in this State, who serve without salary, but are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally.

4. Any recommended legislation proposed by the interim committee must be approved by a majority of members of the Senate and a majority of the members of the Assembly appointed to the Committee.



5. On or before February 1, 2011, the Legislative Commission shall submit a report of the results of the study conducted pursuant to this section and any recommendation for legislation to the Director of the Legislative Counsel Bureau for transmission to the 76th Session of the Nevada Legislature.

Sec. 9. 1. The Legislative Commission shall, as soon as practicable after July 1, 2009, appoint an Interim Technical Advisory Committee for Intergovernmental Relations, consisting of:

- (a) Six representative of local governments in this State; and
- (b) Three representatives of agencies of this State.

2. The purpose of the Interim Technical Advisory Committee is to foster effective communication, cooperation and partnerships among the State Government and local governments to improve the provision of governmental services to the people of this State.

3. The Interim Technical Advisory Committee shall elect from among its membership and by majority vote a Chairman and Vice Chairman.

4. The Interim Technical Advisory Committee shall meet at least once every 3 months and at such additional times as may be deemed necessary by the Chairman. A majority of the members of the Committee constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the committee.

5. Each member of the Interim Technical Advisory Committee who is an officer or employee of the State or a local government must be relieved from his duties without loss of his regular compensation so that he may prepare for and attend meetings of the Committee and perform any work necessary to accomplish the work of the Committee in the most timely manner practicable. A state agency or local government shall not require an officer or employee who is a member of the Committee to make up the time he is absent from work to fulfill his obligations as a member, nor shall it require the member to take annual vacation or compensatory time for the absence. Such a member shall serve on the Committee without additional compensation, except that while he is engaged in the business of the Committee, he is entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally, which must be paid by the state agency or local government which employs him.

6. The Nevada Association of Counties and the Nevada League of Cities and Municipalities shall provide the Interim Technical Advisory Committee with administrative support.



7. The Interim Technical Advisory Committee shall:
- (a) Serve as a forum for the discussion and resolution of intergovernmental problems among the State Government and local governments;
 - (b) Engage in activities and conduct studies relating to, without limitation:
 - (1) The structure of local governments;
 - (2) The functions and powers, including, without limitation, fiscal powers, of local governments;
 - (3) Relationships among the State Government and local governments;
 - (4) The allocation of state and local resources; and
 - (5) Any appropriate legislation to be recommended to the interim committee appointed pursuant to section 8 of this act; and
 - (c) On or before June 1, 2010, submit to the interim committee appointed pursuant to section 8 of this act:
 - (1) A recommendation regarding the need for a permanent Nevada Advisory Commission on Intergovernmental Relations; and
 - (2) Any other recommendations for appropriate legislation resulting from any reviews or studies conducted by the Interim Technical Advisory Committee.
8. As used in this section:
- (a) "Agency" has the meaning ascribed to it in NRS 233B.031.
 - (b) "Local government" has the meaning ascribed to it in NRS 354.474.
- Sec. 10. 1. This act becomes effective on July 1, 2009.
2. Section 9 of this act expires by limitation on June 30, 2011.



APPENDIX B

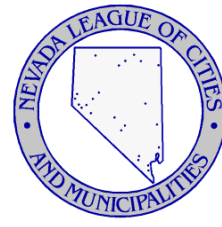
Suggested Legislation

The following Bill Draft Requests will be available during the 2011 Legislative Session or can be accessed after “Introduction” at the following website: <http://www.leg.state.nv.us/Session/76th2011/BDRList/>

- | | |
|------------|---|
| BDR 19–169 | Makes the Nevada Advisory Committee on Intergovernmental Relations permanent. |
| BDR 20–170 | Grants power to local governments to perform certain acts or duties which are not prohibited or limited by statute. |
| BDR 281–72 | Authorizes governing bodies of local governments to adopt ordinances for the sale of naming rights to certain facilities. |
| BDR –173 | Revises provisions relating to salaries of elected county officials. |

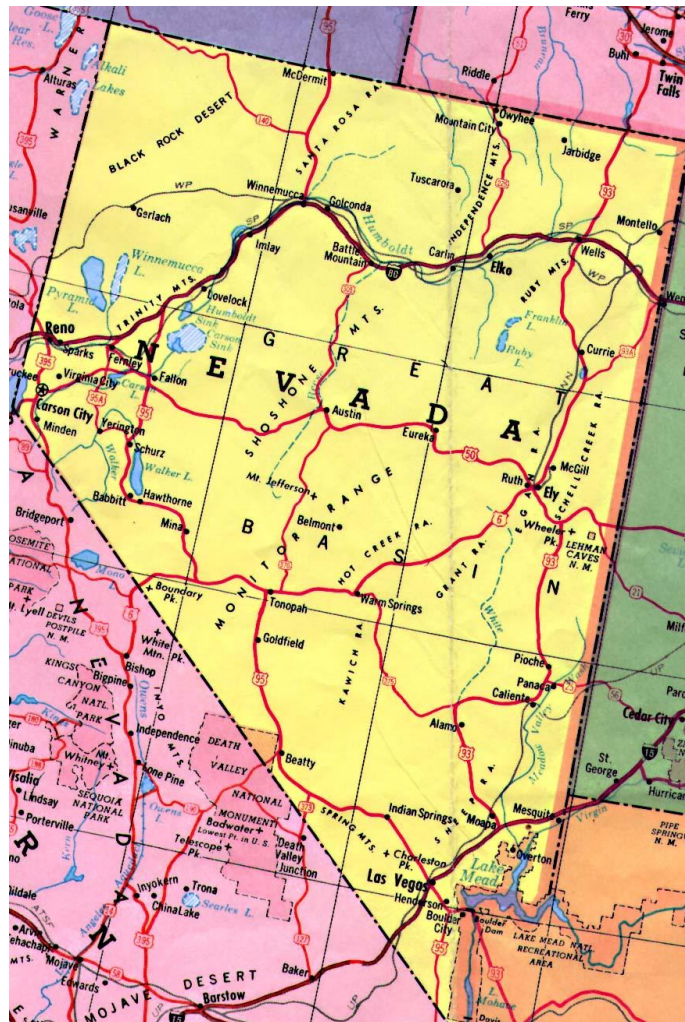
APPENDIX C

Report of the Interim Technical Advisory Committee on Intergovernmental Relations
(June 1, 2010)



INTERIM TECHNICAL ADVISORY COMMITTEE FOR INTERGOVERNMENTAL RELATIONS (ACIR)

(Senate Bill 264 of the 2009 Legislative Session [Section 9])



June 2010

**Interim Technical Advisory Committee for Intergovernmental Relations
(ACIR) – Senate Bill 264 (Section 9)**

**Report to the Legislative Commission's
Committee to Study Powers Delegated to
Local Governments
(Senate Bill 264, Section 8)**

June 2010

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SUMMARY OF RECOMMENDATIONS

Interim Technical Advisory Committee for Intergovernmental Relations (ACIR)

Senate Bill 264, Section 9
(Chapter 462, *Statutes of Nevada 2009*)

On May 24, 2010, during the fourth meeting of the Interim Technical Advisory Committee for Intergovernmental Relations (ACIR), the members conducted a work session and voted to recommend that the Legislative Commission's Committee to Study Powers Delegated to Local Governments submit 3 Bill Draft Requests (BDRs) to the 2011 Legislative Session. A summary of each suggested BDR follows. In addition, the ACIR has identified four specific areas for further examination.

BILL DRAFT REQUESTS

- A. Draft legislation to establish the Nevada Advisory Committee for Intergovernmental Relations (ACIR) to continue the work begun by the Interim Technical Advisory Committee for Intergovernmental Relations and to serve as a forum for the discussion of intergovernmental relations and the provision of services to the citizens of this State.
- B. Draft legislation proposing to amend the Constitution of Nevada to allow counties to adopt charters.
- C. Draft legislation granting functional home rule to local governments in Nevada.

ISSUES IDENTIFIED FOR FURTHER EXAMINATION

- Health Care
- Transportation
- Taxation
- Economic Development

**REPORT TO THE LEGISLATIVE COMMISSION'S COMMITTEE TO STUDY
POWERS DELEGATED TO LOCAL GOVERNMENTS
(Senate Bill 264, Section 8)**

I. INTRODUCTION

During the 75th Legislative Session, the Nevada State Legislature passed Senate Bill 264 (Chapter 462, *Statutes of Nevada 2009*). Section 9 of this legislation directs the Legislative Commission to appoint an Interim Technical Advisory Committee for Intergovernmental Relations (ACIR) to foster effective communication, cooperation and partnerships among the State Government and local governments to improve the provision of governmental services to the people of this State. Senate Bill 264 requires that the ACIR engage in activities and conduct studies relating to, without limitation: (1) the structure of local governments; (2) the functions and powers, including, without limitation, fiscal powers of local governments; (3) relationships among the State Government and local governments; (4) the allocation of state and local resources; and (5) any appropriate legislation to be recommended to the interim committee appointed pursuant to section 8 of the act.

Members

The Legislative Commission appointed the following members to the ACIR:

Nancy Boland	Commissioner, Esmeralda County
Dino DiCianno	Executive Director, Nevada Department of Taxation
Chris Giunchigliani	Commissioner, Clark County
Susan Holecheck	Mayor, City of Mesquite
David Humke	Commissioner, Washoe County
Debra March	Councilwoman, City of Henderson
Geno Martini	Mayor, City of Sparks
Scott Rawlins	Deputy Director, Nevada Department of Transportation
Mike Willden	Director, Nevada Department of Health and Human Services

At the first meeting of the ACIR held January 7, 2010, members elected Washoe County Commissioner David Humke as Chair and City of Henderson Councilwoman Debra March as Vice-Chair. Wes Henderson was named Committee Secretary.

Staff

The following personnel provided support for the ACIR.

Jeff Fontaine	Executive Director, Nevada Association of Counties (NACO)
---------------	--

David Fraser
Wes Henderson

Executive Director, Nevada League of Cities and
Municipalities
Government Affairs Coordinator, NACO

II. ACIR ACTIVITIES

In order to meet the requirements of Senate Bill 264 Section 9, the ACIR has met four times. The ACIR met January 7, 2010, April 7, 2010, May 6, 2010 and May 24, 2010. The meetings were held in Carson City and videoconferenced to Las Vegas.

Representatives from city and county governments, the Nevada System of Higher Education and the Legislative Counsel Bureau made presentations to the ACIR regarding various topics related to local government autonomy, the charter process, general law versus charter cities and the provision of services by the different levels of government.

III. DISCUSSION OF MAJOR ISSUES RESULTING IN SUGGESTED BDRs

During the May 24, 2010 meeting of the ACIR, members conducted a work session and voted to submit 3 draft BDRs to the Legislative Commission's Committee to Study Powers Delegated to Local Governments with the recommendation that they be introduced for consideration during the 2011 Legislative Session.

A. Need for a Nevada Advisory Commission on Intergovernmental Relations

The ACIR was unanimous in the need for a Nevada Advisory Commission for Intergovernmental Relations (Commission) and recommends that a Bill Draft Request (BDR) be submitted to create the Commission. The ACIR recognized that a thorough review of the division of powers among, and the provision of services by, the various levels of government in Nevada would be beneficial to state and local government bodies and ultimately to the citizens of the state. To be successful, such a review will require more time than the limited time available during one interim period.

The ACIR was provided information regarding the membership of Advisory Commissions on Intergovernmental Relations used by other states. The consensus was that the membership of the Commission should mirror the ACIR with the addition of two Senators and two members of the Assembly. It was recommended that the Commission be authorized to create advisory boards consisting of representatives of other organizations such as local school boards, improvement districts, the Nevada System of Higher Education or other state agencies as it deems necessary to address particular policy areas.

To further communication between the Commission and the Legislature, the ACIR recommends that a report be submitted on or before July 1 of each year to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative

Commission when the Legislature is not in regular session, detailing its activities during the previous year. In addition, the ACIR recommends that the Commission be granted the authority to submit five Bill Draft Requests prior to each regular session of the Legislature.

Recognizing a need to periodically review the effectiveness of advisory bodies, the ACIR recommends that the Act creating the Commission expire by limitation on June 30, 2015. Should the Commission prove, as expected, to be beneficial to the state in improving government efficiencies and relations, and a need for its continued existence is determined, the life of the Commission could be extended.

A draft BDR for the creation of the Nevada Commission for Intergovernmental Relations containing the provisions discussed above is included in appendix A.

B. *Constitutional Amendment to allow Counties to Adopt Charters.*

The ACIR unanimously recommends that a BDR be submitted proposing that the Nevada Constitution be amended to allow counties to adopt charters. Under the Nevada Constitution (Article 8, Section 8), *“the legislature may, by general laws, in the manner and to the extent there in provided, permit and authorize the electors of any city or town to frame, adopt and amend a charter for its own government, or to amend any existing charter of such city or town.”* There is no such provision relating to counties.

Representatives explained the differences and similarities of both general law and charter cities. While both types of cities are ultimately governed by the Legislature, charter cities can tailor their governing document, the charter, within the parameters established by the Legislature as the will of the citizens of the city dictate. Changes made to one city’s charter do not affect the charter of any other city. General law cities wishing a change in operational authority must seek a modification of the governing statute. If the change is enacted by the Legislature it affects all general law cities equally.

Members of the ACIR were given presentations regarding charter county governments in other states. According to a 2008 publication of the National Association of Counties, “Twenty-three states now authorize their counties to adopt a home rule charter. Another 13 permit (or mandate) some type of home rule.”¹ The same publication noted that “[w]hile charter status can bestow a vast number of reforms, it does not guarantee powers in all three domains [structural, functional, fiscal]; many charter provisions prohibit certain types of reforms (e.g. fiscal) and established powers can be limited further in the construction of specific charters.”²

¹ (National Association of Counties, 2008, p. 81)

² (National Association of Counties, 2008, p. 79)

The ACIR was advised that the Legal Division of the Legislative Counsel Bureau has determined that a constitutional amendment would be required before counties in Nevada could adopt a charter. This determination is based, at least in part, on the requirement that “*The Legislature shall establish a system of County and Township Government which shall be uniform throughout the State.*” (Nevada Constitution, Article 4 Section 25).

A draft BDR proposing a constitutional amendment allowing counties to adopt charters is included in appendix A.

C. Functional Home Rule for Local Governments.

There are four areas in which local governments may be granted “Home Rule”:

Structural Home Rule – relates to the form of governing body

Fiscal Home Rule – relates to revenue streams, tax rates, borrowing and spending authorities.

Personnel Home Rule – relates to employment practices and policies including collective bargaining.

Functional Home Rule – relates to the daily operation of the government agencies.

The ACIR was unanimous in support of legislation granting functional home rule to local governments in Nevada. The committee determined that a general approach should be taken to grant this authority to local governments. This would allow local governments the authority to take actions that are not prohibited or limited by statute. This approach is discussed in more detail below. The ACIR recommends that a BDR be submitted allowing local governments to exercise functional home rule.

Dillon’s Rule holds that:

[A] municipal corporation possesses and can exercise the following powers and no others: First those granted in express words; second, those necessarily implied or necessarily incident to the powers expressly granted; third, those absolutely essential to the declared objects and purposes of the corporation and which are not simply convenient, but indispensable; fourth, any fair doubt, as to the existence of a power is resolved by the courts against the corporation – against the existence of the power. (Merriam v. Moody’s Executor, 25 Iowa 163, 170 (Iowa 1868), [emphasis added])

As Nevada is considered a Dillon’s Rule state, courts, city attorneys and county district attorneys have ruled and opined that local governments may not take any action or possess any authority that has not been expressly granted by the Legislature. Given that the Legislature only meets once per biennium, local governments often face a two-year delay in obtaining authority over issues of local concern. This process can negatively

impact the daily operations of local governments as well as unnecessarily cause the Legislature to waste valuable time dealing with local issues. Inserting language in existing statutes granting local governments the authority to take actions that are not prohibited or limited by statute would provide clear intent to the courts and the attorneys that serve Nevada's local government bodies, while preserving the Legislature's rightful ability to prohibit or limit local government authority.

A Draft BDR to grant functional home rule to local governments in Nevada is attached in appendix A.

IV. PLANNED FUTURE ACTIVITIES

Pursuant to Subsection 2, Section 10 of Senate Bill 264, the Interim Technical Advisory Committee for Intergovernmental Relations (ACIR) expires by limitation on June 30, 2011. The members of the ACIR will continue to meet until that date to review government operations in Nevada as outlined in Subsections 7(b)(1 – 5), Section 9 of Senate Bill 264. Any recommendations or other commentary developed by the ACIR will be submitted as a supplement to this report. Among the items to be reviewed are:

- Health Care
- Transportation
- Taxation
- Economic Development
- Other topics as developed by the members of the ACIR.
- Other topics as requested by the Legislative Commission prior to the 2011 Regular Session.
- As requested by the Legislature during the 76th Session of the Nevada Legislature.

V. CONCLUDING REMARKS

The Interim Technical Advisory Committee for Intergovernmental Relations (ACIR) has successfully begun the review of government relations and operations as required by Section 9 of Senate Bill 264. As mentioned above, the ACIR plans on continuing its work and has recommended the creation of a more permanent Nevada Advisory Commission for Intergovernmental Relations to fully realize the goal of better, more efficient government in Nevada.

The ACIR would like to thank the following individuals for making presentations or otherwise providing information to the committee:

Michael Stewart	Supervisory Principal Research Analyst, Legislative Counsel Bureau
Dr. Robert Morin, J.D., Ph.D.	Division Chair, Social Science, Education, Humanities and Public Service, Western Nevada College
Steve Driscoll	Assistant City Manager, City of Sparks
David Dawley	Assessor, Carson City
Josh Wilson	Assessor, Washoe County

The members sincerely appreciate the time, expertise and information these individuals volunteered to help make the actions of the ACIR a success.

Bibliography

National Association of Counties. (2008). *County Government Structure: A State by State Report*. Washington, DC: National Association of Counties.

APPENDICES

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APPENDIX A

Draft BDR for Creation of Nevada ACIR

Prepared by the Nevada Association of Counties

April 28, 2010

- 1) The Nevada Advisory Commission for Intergovernmental Relations (ACIR) is hereby created.
- 2) The purpose of the Commission is to foster effective communication, cooperation and partnerships among the State Government and local governments in order to improve the provision of governmental services to the people of this State.
- 3) The Commission consists of the following 13 members:
 - a) Two Senators, one each of whom is appointed by the Majority and Minority Leaders of the Senate;
 - b) Two members of the Assembly, one each of whom is appointed by the Speaker and Minority Leader of the Assembly;
 - c) Three members, each of whom is a member of a board of county commissioners from a different county, appointed by the Executive Director of the Nevada Association of Counties;
 - d) Three members, each of whom is an elected official from a different local government that is not a county appointed by the Executive Director of the Nevada League of Cities and Municipalities; and
 - e) Three members, each of whom is an employee or authorized representative of a different state agency.
- 4) The Initial Representatives of the Executive Branch and City and County Governments shall, if eligible, be the members that served on the Interim Technical Advisory Committee for Intergovernmental Affairs established by Section 9 of Senate Bill 264 of the 2009 Legislative Session.
- 5) The term of office of each member of the Commission is 2 years and commences on July 1 of an odd-numbered year.
- 6) A vacancy on the Commission must be filled by appointment for the unexpired term in the same manner as the original appointment.
- 7) At the first regular meeting after July 1 of each year:
 - a) The members of the Commission shall elect by majority vote from among those members eligible pursuant to subsection (c) below a Chair of the Commission; and
 - b) The members of the Commission shall elect by majority vote from among those members eligible pursuant to subsection (c) below a Vice Chair of the Commission;
 - c) The Chair and Vice Chair shall be elected from the members of the Commission who are elected officials, either a member of the legislature, a county commissioner or a local government official.

- 8) The Chair and Vice Chair shall serve until the next Chair and Vice Chair, respectively, are elected. If a vacancy occurs in the Chair or Vice Chair position, the vacancy must be filled in the same manner as the original election.
- 9) The Commission may, on such occasions as it deems necessary, create an advisory board consisting of members of executive branch departments, county, city or municipality management or other personnel as needed, to assist the Commission in the completion of their duties.
- 10) The Commission shall meet at least once every 3 months and at additional times as deemed necessary by the Chair.
- 11) A majority of the Commission constitutes a quorum for the transaction of business, and a majority of those members present at any meeting is sufficient for any official action taken by the Commission.
- 12) The Commission shall:
 - a) Serve as a forum for the discussion and resolution of intergovernmental problems among the State Government and local governments;
 - b) Engage in activities and conduct studies relating to, without limitation:
 - 1) The structure of local governments;
 - 2) The functions and powers, including, without limitation, fiscal powers, of local governments;
 - 3) Relationships among the State Government and local governments;
 - 4) The allocation of state and local resources; and
 - 5) Any appropriate legislation to be recommended to the Legislature.
- 13) In addition to the duties set forth in section 11, the Legislature may direct the Commission to study particular policy areas during an interim period between legislative sessions.
- 14) On or before July 1 of each year preceding a Regular Session of the Legislature, the Commission may submit up to five Bill Draft Requests to the Legislative Counsel Bureau.
- 15) On or before July 1 of each year, prepare and submit to the Director of the Legislative Counsel Bureau for submission to the Legislature, or to the Legislative Commission when the Legislature is not in regular session, a report concerning its activities and findings during the previous year.
- 16) Each member of the Commission is entitled to receive the per diem allowance and travel expenses pursuant to NRS 218.2207 provided for state officers and employees generally for each day or portion of a day during which he attends a meeting of the Commission or is otherwise engaged in the business of the Commission.

17) The Director of the Legislative Counsel Bureau, the Nevada Association of Counties and the Nevada League of Cities and Municipalities, shall each provide the Commission with administrative support.

18) This Act expires by limitation on June 30, 2015.

Draft BDR Allowing County Governments to Adopt a Charter

Prepared by the Nevada Association of Counties

April 28, 2010

_____ Joint Resolution

RESOLVED BY THE SENATE AND ASSEMBLY OF THE STATE OF NEVADA, JOINTLY, That Section 25 of Article 4 of the Nevada Constitution be amended as follows:

Sec: 25. **Uniform county and township government.** The Legislature shall establish a system of County and Township Government which shall be uniform throughout the State. ~~provided, however, that the legislature may, by general laws, in the manner and to the extent therein provided, permit and authorize the electors of any county to frame, adopt and amend a charter for its own government, or to amend any existing charter of such county.~~

Draft BDR Granting Functional Home Rule to Local Governments

Prepared by the Nevada Association of Counties

April 30, 2010

NRS244.195 is amended as follows:

NRS 244.195 Other powers. The boards of county commissioners shall have power and jurisdiction in their respective counties to do and perform all such other acts and things ~~as may be lawful and strictly necessary to the full~~ that are not prohibited or limited by statute to fully discharge ~~of~~ the powers and jurisdiction conferred on the board.

NRS 266.085 is amended as follows:

NRS 266.085 City is municipal corporation; name; general powers.

1. Cities incorporated pursuant to this chapter:
 - (a) Are municipal corporations.
 - (b) Shall be known and designated by the name and style adopted.
2. Under such name, cities may:
 - (a) Sue and be sued.
 - (b) Contract and be contracted with.
 - (c) Acquire and hold real and personal property for corporate purposes.
 - (d) Have a common seal and change the same at pleasure.
 - (e) Have perpetual succession.
 - (f) Exercise all the powers conferred in this chapter: and perform all such other acts and things that are not prohibited or limited by statute to fully discharge the powers and jurisdiction conferred on the city.

NRS 268.008 is amended as follows:

NRS 268.008 General powers. An incorporated city may:

1. Have and use a common seal, which it may alter at pleasure.
2. Purchase, receive, hold and use personal and real property wherever situated.
3. Except as otherwise provided in NRS 268.059, 268.061 and 268.062, sell, convey and dispose of such personal and real property for the common benefit.
4. Determine what are public uses with respect to powers of eminent domain.
5. Acquire, own and operate a public transit system both within and without the city.
6. Receive bequests, devises, gifts and donations of all kinds of property wherever situated in fee simple, in trust or otherwise, for charitable or other purposes and do anything necessary to carry out the purposes of such bequests, devises, gifts and donations with full power to manage,

sell, lease or otherwise dispose of such property in accordance with the terms of such bequest, devise, gift or donation.

7. Exercise all the powers conferred in this chapter and perform all such other acts and things that are not prohibited or limited by statute to fully discharge the powers and jurisdiction conferred on the city.

APPENDIX B – Summary Minutes of ACIR Meetings



INTERIM TECHNICAL ADVISORY COMMITTEE FOR INTERGOVERNMENTAL RELATIONS (ACIR)

January 7, 2010 – 1:00pm

**Nevada State Health Division
4150 Technology Way, Suite 303
Carson City, NV 89706**

**Videoconference Location
Southern Nevada Health District
625 Shadow Lane
Las Vegas, NV 89106**

Summary Minutes

Members present: Commissioner Nancy Boland (Esmeralda), Director Dino DiCianno (Department of Taxation), Commissioner Chris Giunchigliani (Clark), Mayor Susan Holecheck (Mesquite), Commissioner David Humke (Washoe), Councilwoman Debra March (Henderson), Mayor Geno Martini (Sparks), Deputy Director Scott Rawlins (Department of Transportation) and Director Mike Willden (Department of Health and Human Services).

Members absent: None

Others present: Terri Barber (Henderson), Constance Brooks (Clark), Heidi Chlarson (LCB), Jeff Fontaine (NACO), Lisa Foster (Boulder City), David Fraser (LOC&M), Wes Henderson (NACO), Alexis Miller (Reno), Randy Robison (Mesquite), Sabra Smith-Newby (Clark) and Michael Stewart (LCB).

- 1. Action Item - Call to Order and Roll Call – Mike Willden, Director, Department of Health and Human Services.** Director Willden called the meeting to order at 1:17pm and noted that the meeting had been properly noticed in compliance with NRS 241.020. Roll call was taken. All committee members were present.

2. **Action Item - Election of Chair and Vice-Chair – Wes Henderson, Government Affairs Coordinator, Nevada Association of Counties.** Subsection 3 of Section 9 of SB264 of the 2009 Legislative Session required the committee to elect from among its members and by majority vote a Chair and Vice-Chair. Mr. Henderson opened the floor for nominations. Mayor Holecheck moved that Commissioner David Humke be the Chair and Councilwoman March be Vice-Chair. The motion was seconded by Mayor Martini and passed unanimously.
3. **Action Item – Appointment of Committee Secretary.** Commissioner Boland moved that Wes Henderson of NACO be appointed as Committee Secretary. Motion seconded by Director Willden and passed unanimously.
4. **Informational Item – Briefing on Origin of ACIR – Jeff Fontaine, Executive Director, Nevada Association of Counties and David Fraser, Executive Director, Nevada League of Cities and Municipalities.** Mr. Fontaine presented a brief history of Advisory Committees on Intergovernmental Affairs. Fontaine stated that the first federal committee, known as the Kestenbun Committee was formed in 1953 which led to the creation of a federal ACIR in 1959. Over the years at least 26 states have created one form or another of intergovernmental advisory bodies. Efforts to create an ACIR in Nevada began in 1996 when the Truckee Meadows Regional Planning District in conjunction with NACO and NLC&M recommended the legislature create an advisory committee. The Senate Government Affairs Committee, on behalf of NACO, introduced SB375 calling for the creation of a permanent ACIR. Due to end-of-session pressures and the practice of the legislature to only create a limited number of interim studies, the ACIR was included in SB264 and made temporary. Mr. Fraser said that the League of Cities was happy to have supported the creation of an ACIR and hoped that, as a result of this committee and the SB264 committee, that it would be made permanent in the 2011 session. Commissioner Giunchigliani asked if opposition to the concept of an ACIR was the reason it was made temporary. Mr. Fraser answered that some legislators wanted to see how it worked prior to creating a permanent committee. Commissioner Giunchigliani noted that Clark County had received the final recommendations from a citizens committee formed in Clark and one of the desires of the committee were to see more collegiality among governments and that an ACIR may contribute to that. Director Willden asked what exactly Dillon’s Rule was. Mr. Fontaine gave a brief description of the rule which holds that county governments have only the powers expressly granted to them by the legislature as opposed to home rule which gives greater autonomy to local governments.
5. **Informational Item – Briefing on duties of ACIR as Detailed in SB264 – Michael Stewart, Supervisory Principal Research Analyst, Legislative Counsel Bureau.** Mr. Stewart noted that the members of the committee were appointed by the Legislative Commission on October 26, 2009 in accordance with SB264. Stewart outlined the committee charges as contained in section 9 of the bill and commented that, due to the inclusion of the language “without limitation” the committee had latitude to expand the areas of intergovernmental relations it wished to explore. The committee is required to issue a report to the SB264 committee by June 1, 2010 including a recommendation as to

the need for a permanent ACIR. Stewart mentioned that Senator Lee, who will chair the SB264 Committee, had expressed his excitement of working with the committee and that committee members should feel free to contact him. Mr. Stewart noted that the SB264 committee was scheduled to meet February 18th, April 19th and sometime in June with all meetings being held in Las Vegas. He expressed Senator Lee's desire for the two committees to complement each other. Chair Humke mentioned that he had spoken with Senator Lee and that he absolutely agreed with Stewart's characterization of Lee's commitment to this issue.

6. **Action Item – Discussion and Possible Action Regarding Programs and Issues to be Addressed by the ACIR.** Discussion among the committee members expressed interest in looking into the areas of consolidation, structure of governments, government responsibility as a result of failure of HOA's, SID's or GID's. It was suggested that more information regarding Dillon's/Home Rule be disseminated to the committee. The committee also expressed interest in exploring the concept of charter cities and/or counties and directed staff to provide background information for further discussion.
7. **Action Item – Discussion and Possible Action Regarding a Bill Draft Request to make Permanent the Interim ACIR.** The committee discussed a draft BDR prepared by NACO to make permanent the ACIR. Questions were raised as to the makeup of the committee membership regarding the inclusion of agency staff versus elected officials. It was noted that one section of the draft allowed for the creation of technical advisory boards as needed. Commissioner Giunchigliani moved to conceptually approve the submittal of a BDR making the ACIR permanent with the specifics to be developed by the committee at future meetings. The motion was seconded by Councilwoman March and passed unanimously. Staff was directed to provide the committee with various models of advisory committees that have been used by various other states.
8. **Action Item – Scheduling of Next Meeting.** The next meeting of the committee was scheduled for 1:00pm on March 4, 2010. Location to be determined by staff.
9. **Public Comments** – There were no public comments.

Mayor Martini moved for adjournment, seconded by Commissioner Boland, passed unanimously.

Adopted by unanimous vote of members present at the April 7, 2010 meeting.



INTERIM TECHNICAL ADVISORY COMMITTEE FOR INTERGOVERNMENTAL RELATIONS (ACIR)

(SB264 Section 9)

April 7, 2010 – 9:00am

**Department of Health and Human Services – Director's Office
4126 Technology Way, Suite 100
Carson City, NV 89706**

**Videoconference Location
Division of Child and Family Services
4180 South Pecos, Suite 150
Las Vegas, NV 89121**

Summary Minutes

Members present: Commissioner Nancy Boland (Esmeralda), Director Dino DiCianno (Department of Taxation), Commissioner Chris Giunchigliani (Clark), Mayor Susan Holecheck (Mesquite), Councilwoman Debra March (Henderson), Mayor Geno Martini (Sparks), Deputy Director Scott Rawlins (Department of Transportation) and Director Mike Willden (Department of Health and Human Services).

Members absent: Commissioner David Humke (Washoe)

Others present: Terri Barber (Henderson), Constance Brooks (Clark), Steve Driscoll (Sparks), Jeff Fontaine (NACO), Lisa Foster (Boulder City), David Fraser (LOC&M), Wes Henderson (NACO), Rob Joiner, Candence Matijevich (Reno), Dr. Robert Morin (WNC), Dan Musgrove (North Las Vegas), Randy Robison (Mesquite), B. J. Selinder (Churchill, Elko and Eureka Counties) and Michael Stewart (LCB).

1. Action Item - Call to Order and Roll Call – Commissioner Dave Humke, Chair

The meeting was called to order by Vice-Chair Debra March.

2. Action Item – Approval of Minutes of the January 7, 2010 Meeting.

Minutes approved by unanimous vote.

3. Informational Item – Update on Activities of the Interim Committee to Study the Powers Delegated to Local Governments (S.B. 264, sec. 8) - Michael Stewart, Supervising Principal Research Analyst, Legislative Counsel Bureau.

Michael Stewart from LCB briefed the ACIR on the February 18th meeting of the SB264 Committee. He reported that the committee was given an overview of their duties under SB264 and a presentation regarding home rule from Nick Anthony, Senior Principal Deputy Legislative Counsel, Legislative Counsel Bureau. The committee was also briefed on the structure and authorities of local governments in other states by Mr. Stewart. ACIR Vice-Chair Debra March provided an overview of the activities of the ACIR meeting held January 7th. The SB264 Committee heard presentations on various topics relating to local governments including local elected official salaries, naming rights, issues of parity between city and county governments, charter processes and the difference between charter and general law cities.

4. Informational Item – Presentation on Local Government Autonomy in Nevada – Dr. Robert Morin, J.D., Ph.D., Division Chair, Social Science, Education, Humanities and Public Service, Western Nevada College.

The ACIR was given a presentation by Dr. Robert Morin, Division Chair of Social Services, Education, Humanities and Public Service, Western Nevada College regarding the structure of government in Nevada. Dr. Morin co-authored the Nevada Chapter of the 2001 Congressional Quarterly publication “*Home Rule in America, A Fifty-State Handbook*” with Dr. Eric Herzik of UNR.

5. Informational Item – Presentation Comparing General Law and Charter Forms of Government – Steve Driscoll, Assistant City Manager, City of Sparks and Steve West, City Manager, City of Winnemucca.

Steve Driscoll, Sparks’ Assistant City Manager, gave a presentation regarding the differences between charter and general law cities.

6. Informational Item – Presentation on County Charter Governments in Other States – Wes Henderson, Government Affairs Coordinator, Nevada Association of Counties.

An overview of charter governments in other states was presented by Wes Henderson, NACO Government Affairs Coordinator.

7. Action Item – Discussion and Possible Action to Recommend the Drafting of a BDR to Authorize County Governments in Nevada to Adopt a Charter.

The ACIR voted to proceed with an exploration of charter governments to develop a draft BDR to be submitted to this committee as a part of the ACIR’s report due June 1st. At

this time it was unknown if a constitutional amendment would be needed to allow counties to adopt charters. Mr. Stewart was asked to follow up with LCB Legal for an opinion.

8. Informational Item – Discussion Regarding Models of ACIR’s Used by the Federal Government and Various State Governments – Jeff Fontaine, Executive Director, Nevada Association of Counties.

Jeff Fontaine, NACO Executive Director, made a presentation regarding models of ACIRs used by other states.

9. Action Item – Discussion and Possible Action Regarding a Bill Draft Request to make Permanent the Interim ACIR.

The ACIR voted to further study the membership of this other ACIRs and to have staff continue work on a draft BDR to submit to this committee to make permanent the interim ACIR.

10. Informational Item – Overview on the Duties and Responsibilities to Provide Services by the State and Local Governments – Jeff Fontaine, Executive Director, Nevada Association of Counties and David Fraser, Executive Director, Nevada League of Cities and Municipalities.

David Fraser, Executive Director of the Nevada League of Cities and Municipalities and Mr. Fontaine presented an overview of the duties and responsibilities to provide services by the different levels of governments in the state. Director Willden voiced his opinion that this subject was critical to all levels of government in the state and expressed his desire to see the ACIR continue to examine the provision of services after the June 1 report is submitted.

11. Action Item – Discussion and Possible Formation of Recommendations for Inclusion in Committee Report Due to be Submitted to the Interim Committee to Study the Powers Delegated to Local Governments (S.B. 264, sec. 8) on or Before June 1, 2010.

Members of the ACIR discussed the status of local government authority in Nevada and agreed that total home rule was too much to expect at this point in time. The committee agreed that the current focus should be on identifying areas of governmental operations whose efficiency would be increased by the granting of functional home rule to local governments. Staff was directed to circulate the statutes governing local government operations seeking input from local governing entities.

12. Action Item – Scheduling of Next Meeting.

The next meeting of the ACIR was scheduled for May 6, 2010 at 9:00am.

13. Public Comment

There was no public comment.

Adopted by unanimous vote of members present at May 6, 2010 meeting.



INTERIM TECHNICAL ADVISORY COMMITTEE FOR INTERGOVERNMENTAL RELATIONS (ACIR)

(SB264 Section 9)

May 6, 2010 – 9:00am

**Health Division Hearing Room
4150 Technology Way, Suite 303
Carson City, NV 89706**

**Videoconference Location
Division of Child and Family Services
4180 South Pecos, Suite 150
Las Vegas, NV 89121**

Summary Minutes

Members present: Commissioner Nancy Boland (Esmeralda), Director Dino DiCianno (Department of Taxation), Commissioner Chris Giunchigliani (Clark), Mayor Susan Holecheck (Mesquite), Commissioner David Humke (Washoe), Councilwoman Debra March (Henderson) and Mayor Geno Martini (Sparks).

Members absent: Deputy Director Scott Rawlins (Department of Transportation) and Director Mike Willden (Department of Health and Human Services).

Others present: Terri Barber (Henderson), Constance Brooks (Clark), David Dawley (Carson City), Jeff Fontaine (NACO), Lisa Foster (Boulder City), David Fraser (LOC&M), Wes Henderson (NACO), Candence Matijevich (Reno), Dan Musgrove (North Las Vegas), Randy Robison (Mesquite), B. J. Selinder (Churchill, Elko and Eureka Counties) and Michael Stewart (LCB), Mary Walker (Carson City, Douglas, Lyon and Storey) and Josh Wilson (Washoe).

1. Action Item - Call to Order and Roll Call – Commissioner Dave Humke, Chair

Chair Humke called the meeting to order and determined that a quorum was present.

2. Action Item – Approval of Minutes of the April 7, 2010 Meeting.

Minutes were approved unanimously on a motion by Mayor Holecheck seconded by Commissioner Giunchigliani.

3. Informational Item – Update on Activities of the Interim Committee to Study the Powers Delegated to Local Governments (S.B. 264, sec. 8) - Michael Stewart, Supervising Principal Research Analyst, Legislative Counsel Bureau, Jeff Fontaine, Executive Director, Nevada Association of Counties and David Fraser, Executive Director, Nevada League of Cities and Municipalities.

Michael Stewart reported on the actions taken at the April 22, 2010 meeting of the Interim Committee to Study Powers Delegated to Local Governments (SB264). He reported that the committee heard presentations similar to those heard by this committee regarding the differences between general law and charter cities and possible approaches to functional home rule for local governments. In addition, the committee was briefed on the activities of the ACIR and held discussions regarding the salaries of local elected officials and the provisions governing the sale of naming rights by local governments. Jeff Fontaine advised the ACIR that the SB264 committee was interested on their input regarding certain tax issues. David Fraser reported in comments made during the public comment period of the April 22 meeting by Knight Allen (a private citizen). Mr. Allen expressed concern that a permanent ACIR would create an additional level of government oversight. Fraser indicated that the intention of an ACIR is to improve communication among the various levels of government to improve the efficiency of governments and to improve the provision of services.

4. Action Item – Presentation, Discussion and Possible Action Regarding Possible Recommendation to Modify or Eliminate the Three and Eight Percent Tax Caps (NRS 361.4723 – 4724), David Dawley, Assessor Carson City.

Carson City Assessor David Dawley and Washoe County Assessor Josh Wilson discussed the three and eight percent partial abatements on property taxes. Both Mr. Dawley and Mr. Wilson stated that the assessors in Nevada were not in favor of eliminating the abatements. However, both men said that the assessors may be in favor of some changes to the current system such as a single rate of abatement to make the program easier to administer. Dawley noted that in many counties residents would see sizeable increases in their tax bills if the abatements were eliminated. Wilson reported that only a small percentage of Washoe County residents currently benefit from the program as a result of the severe devaluation of real property in the county. Several members of the ACIR noted that any discussion of taxes, especially in the current economic climate, could quickly turn “radioactive”. Commissioner Boland stated that

many of the concerns citizens have regarding property tax bills are created by not understanding how they are calculated. Director DiCianno remarked that many residents are frustrated when their tax bills are not reduced even after a successful appeal of assessed value is granted by the Board of Examiners. Commissioner Giunchigliani asked about the impact the 15% recapture provision had on the Distributive School Account. DiCianno stated that the inability to adjust third tier distribution caused by a revaluation the department could only estimate per pupil funding creating budgetary uncertainty for school districts. David Fraser asked if a modification in the time frame for value fluctuation that would trigger recapture would be beneficial. Discussion also focused on tax relief for senior citizens. Questions were raised regarding the effects of a single rate of abatement (one suggestion was six percent) and if there were models from other states the ACIR could review. Wilson stated that other states employ a market based system to determine assessed value.

Members of the ACIR expressed a desire to further explore this topic at a future meeting.

5. Action Item – Discussion Regarding the Provision of Services by the Various Levels of Government and Possible Action to Form a Subcommittee to Further Examine the Provision of Services.

Due to the absence of Director Willden this item was postponed and will be considered at a later meeting.

6. Work Session – The ACIR May Take Action on Items Considered in Prior Meetings Including, but not Limited to;

a) Draft BDR Making Permanent the ACIR

Wes Henderson briefed the members regarding a draft BDR to make permanent the ACIR. Discussion was held regarding the membership of the ACIR, the number of BDRs it should be allotted and the possible inclusion of a sunset provision. It was agreed that the membership should be the current format with the addition of the chairs of the Senate and Assembly Government Affairs Committees or their designees, that the ACIR be authorized to submit 5 BDRs prior to the start of a regular session of the Legislature, and that a sunset of June 30, 2015 be included. It was recommended that, with the inclusion of the sunset provision, that the word “Permanent” be removed from the title of the BDR. The ACIR unanimously approved recommending that the SB264 committee submit a BDR creating the Nevada Commission on Intergovernmental Relations as described above.

b) Draft BDR Allowing Counties to Adopt Charters

A draft BDR in the form of a “Joint Resolution” that would begin the process of amending the Nevada Constitution to allow counties to adopt charters was presented to the ACIR. It was explained that the Legislature would have to approve a resolution in two consecutive sessions and then the measure would have to be approved by the voters before it would be

amended into the Constitution. Henderson noted that the language in the BDR was identical to the constitutional provision that allows cities and towns to adopt charters. The ACIR unanimously voted to recommend that the SB264 Committee submit a BDR seeking the necessary constitutional amendment.

c) Draft BDR Granting Functional Home Rule to Local Governments

Jeff Fontaine and David Fraser presented the members with two possible approaches for local governments to achieve functional home rule. Discussed were a “Wholesale” approach and an “Individual Function” approach.

The “Wholesale” approach would insert language into Chapters 244, 266 and 268 of the NRS that would allow local governments to do and perform all such other acts and things “that are not prohibited or limited by statute” to fully discharge the powers and jurisdictions conferred on them. This approach would remove the restriction imposed by “Dillon’s Rule” that local governments only possess the powers expressly granted to them, necessarily implied, incident or those absolutely essential to the express powers granted to them while retaining the right of the Legislature to prohibit or limit local government authorities.

The “Individual Function” approach would remove, on a function-by-function basis, restrictive language currently in statute. This approach would be long term as, similar to determining that a “Dillon’s Rule” problem exists, local governments may not be aware that they are restricted in their flexibility to deliver an assigned function until they are prohibited from doing so. The ACIR was given a draft BDR that addresses certain functions identified by NACO as an example of removing restrictive language from current statutes.

A motion to recommend that the SB264 committee submit BDRs using both the “Wholesale” and “Individual Function” approaches allowing local governments function home rule was unanimously approved.

d) Draft Report to be Submitted to the Interim Legislative Committee to Study Powers Delegated to Local Governments

Wes Henderson presented a preliminary first draft of the ACIR report due to be submitted to the SB264 committee by June 1st to the committee for comment. Members directed staff to continue to work on the report and asked Michael Stewart if he would lend his expertise as needed. Mr. Stewart agreed to help as needed.

7. Action Item – Possible Selection of Agenda Items for Future Meetings.

The ACIR would like to reschedule the discussion on the provision of services by the various levels of government scheduled as Item 5 on today’s agenda for a later date. The committee would also like to further address the property tax cap issue. Finalization of the report due to the SB264 Committee should also be on the next agenda.

8. Public Comment

There was no public comment offered in either Carson City or Las Vegas.

Chair Humke adjourned the meeting on a motion by Mayor Holecheck seconded by Commissioner Boland.

Adopted by unanimous vote of members present at May 24th meeting.

Appendix C – Exhibits

1) Nevada Chapter of “*Home Rule in America – A Fifty State Handbook*”
Published by CQ Press, Washington, DC, 2001

NEVADA

Robert P. Morin and Eric B. Herzik

An image of Nevada conjures up notions of individualism, neon lights, gambling, entertainment, mining, ranching, desert, and sagebrush. Nevada is individualistic and highly urbanized, but urban and rural parts of the state represent quite divergent policy and fiscal interests, which results in local government dichotomy. Governmental authority is centralized, and local governments are afforded little autonomy. Nevada possesses one of the most centralized fiscal systems in the nation, with the state controlling approximately 80 percent of the total revenue of counties and cities. Home rule exists in name only.

Governmental Setting

Nevada became a state in 1864. Old Nevada (1864–1960) was essentially a small-population, slow-growth, homogeneous, rural state with undifferentiated economies.¹ Rapid growth began in the 1960s. Nevada has been the fastest growing state in the nation since 1970. It is projected that Nevada's population will more than double to 3.47 million by 2016. Rapid growth has transformed Nevada into the thirty-ninth most populated state in the nation, with 88 percent of the population located in metropolitan areas.²

New Nevada (1960–present) is dependent upon Clark County. In 1980–1990, the population of Clark County grew by 278,372, a growth rate of 60 percent. It is estimated that the Clark County area, with a 1996 population of 1.08 million, will have a population of 2.62 million by 2016. A solid and growing economy is a necessity because new Nevada's revenues are driven by Clark County's economy and growth.³

Geography and a dominant single-industry economy have traditionally characterized Nevada, directly molding the structure and operation of state and local government. Approximately 85 percent of all lands located in Nevada are owned by the federal government. Nevada has a mostly desert terrain, and less than 1.5 percent of its approximately 71 million acres of land has been cultivated.⁴ From 1864 to 1931, mining for silver, gold, and copper was the dominant industry. Since 1931, gaming tourism has been the dominant industry. Growth in Nevada's population has not been evenly distributed throughout the state because of geographic limitations and the explosive growth of the gaming-tourism industry in Clark County.⁵

Nevada's political culture is individualistic and emphasizes limited government, fiscal conservatism, fragmentation of state

governmental power, and citizen control over government at the ballot box.⁶ Nevada is becoming more Republican than Democrat. Nevada's party competition classification in the 1970s was two-party, Democratic dominant; however, in the 1980s this classification changed to two-party, Republican leaning. Southern Nevada tends to be Democrat, whereas northern and rural Nevada tend to be Republican. Whether Republican or Democrat, Nevadans are politically conservative. State and local government in Nevada is driven by the basic fiscal conservatism of the state's politics. Nevada historically has provided a relatively low level of state services, resulting in a low tax burden.⁷

Nevada's constitution structures state government by apportioning power among the legislative, executive, and judicial branches. The constitution provides for a weak, fragmented, and decentralized executive branch. The governor, who possesses package veto power (that is, the formal power to veto a bill in its entirety), shares executive power and authority with other elected officials, boards, commissions, and councils.⁸ The bicameral legislature is a citizen legislature and employs a biennial budget system.⁹ Because of the legislature's part-time status, low levels of staff support, and crowded agenda during a 120-day biennial session, long-term budgeting and policy issues rarely are addressed in any significant manner.

Nonetheless, the legislature is the dominant branch of state government. The judicial branch consists of a seven-member supreme court and district, family, justice, and municipal courts. The constitution, which provides for the various types of courts, grants considerable authority to the legislature to determine the structure and operation of the judicial system. Legislative and executive branch officials are elected on a partisan ballot; state judges are elected on a nonpartisan ballot.¹⁰

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Home Rule in Nevada

Historical Development

In 1854 the Utah Territorial Legislature created Carson City, the first organized unit of local government in Nevada. Nevada became a separate territory in 1861, and statehood was secured on October 31, 1864.¹¹ Nevada structures and operates state and local government under the original 1864 constitution, which is often amended by the voters and is firmly based on Populist and Progressive philosophies.¹² The legislature was required by the constitution to establish a system of uniform county and township governments. The constitution prohibits local or special laws that would single out a specific county, except where classifications are reasonable and are generally applicable.¹³ The territorial legislature established eleven counties, and the legislature established six counties after statehood. A 1940 constitutional amendment prohibited the legislature from abolishing a county unless approved by the majority of the county's voters at a general or special election.¹⁴ The legislature was authorized to enact special acts for municipal corporation purposes. The constitution required the legislature to provide for the organization of cities and towns through general laws; moreover, it mandated that the legislature restrict cities' and towns' power to tax, assess, borrow money, contract debts, and loan credit.¹⁵

In 1907 the legislature enacted Chapter 266 of the Nevada Revised Statutes, authorizing the creation of city governments by general charter. In 1915 the legislature enacted Chapter 267, a second statutory provision for general-charter authority which specifically authorized a commission form of city government. The constitution was amended in 1968 to allow the legislature to consolidate Ormsby County and Carson City, with Carson City performing the functions of city and county governments.¹⁶ The constitution required the legislature to create one type of special district, the school district.¹⁷

Definition of Home Rule

Nevada historically has been, and continues to be, a classic Dillon's Rule state. County and city government derive all authority from the state; no authority is directly conferred by the constitution.¹⁸ The judiciary has exercised judicial restraint and consistently adhered to the Dillon's Rule philosophy embodied in the constitution. In 1919 the Nevada Supreme Court held that counties were creatures of the legislature, subject to constitutional limitation. The court determined that a county derived its name, mode and manner of government, and rights and powers from the legislature.¹⁹

In 1989 the legislature created Bullfrog County, a 144-square-mile area carved out of Nye County. The purpose of Bullfrog County was to enhance Nevada's ability to receive federal funds under the Nuclear Waste Policy Act. Nye County sued the state, successfully contending that the Bullfrog County legislation violated Nevada's constitutional prohibition against legislation ap-

plicable to only one county. In 1989 the legislature repealed the enactment creating Bullfrog County.²⁰ In 1876 the court held that a municipal corporation was a creature of the legislature and that it derived all of its powers, rights, and franchises from legislative enactment or statutory implication.²¹ In 1908 the court upheld the constitutionality of Chapter 266, the general-charter enactment.²² In 1924 the constitution was amended to permit the legislature to grant home rule to cities; however, the legislature never enacted the requisite implementation legislation. The legislature also has historically and consistently adhered to the Dillon's Rule philosophy. Currently, home rule exists in name only, not in terms of legal authority or actual practice.²³

Structural Features

Nevada has only 240 units of local government; special districts are the most prevalent form of local government. The manager-council form of government is found in approximately 80 percent of Nevada municipalities. County governments are created directly by the legislature; the boundaries and the county seat are specified by law.²⁴ Moving the county seat (which has occurred sixteen times) is accomplished by state legislative enactment or special election held at the county level.²⁵

All seventeen counties are governed by similar multimember organizational structures that combine executive and legislative functions and are given the discretion to employ a professional manager. Town governments are closely tied to county governments. Towns are governed by a town board consisting of three elected residents and two county commissioners. Alternatively, the elected county commissioners act as the town governing body with the assistance of a citizen's advisory council, five members of which are appointed by the board of county commissioners.²⁶

City governments are created by general or special charter. Generally, cities are granted broader powers than are counties; legislative grants of power allow some autonomy and discretion within municipal jurisdictional boundaries. Cities established under special charter remain directly under legislative control; specific legislative approval for that city (and that city only) must be obtained for any change in its governmental structure or service activities.²⁷ Although Chapter 266 is labeled a grant of home rule, home rule exists in name only. The legislature is specifically granted the authority to create or alter the form of city organization by special act or charter. A mayor-council form of government is required. General charters treat all similarly situated cities the same; however, the legislature still may enact legislation that will impact all general-charter cities.²⁸

Chapter 267 not only authorizes a commission form of city government but also establishes a method for general incorporation that allows local autonomy in selecting a particular form of city government. Chapter 267 incorporation is rarely used, because special charters historically have been used by the legis-

lature; moreover, Chapter 267 imposes additional procedures for incorporation. Two elections are required: the first election is to select electors to draft a charter, and the second election is to approve the draft charter. Chapters 266 and 267 allow for incorporation by citizen petition; the signatures of one-third of the qualified electors within the boundaries of the proposed city are required. The board of county commissioners holds hearings on the proposal, issues a written opinion, and calls an election. A majority vote of those voting in the election is required for successful incorporation.²⁹

To incorporate by special charter, local residents draft a charter and present the proposed charter to the legislature. Subject to legislative amendments, the proposed charter is then enacted through the normal legislative process. Chapter 268 allows a majority of a city's governing body or citizens to propose charter amendments by petition, which must be signed by at least 15 percent of those registered voters who voted in the preceding general city election. Proposed charter amendments must be submitted to city voters for approval at the next primary or general city election or primary or general state election. Chapter 268 also authorizes the legislature to amend city charters.³⁰

Chapter 265 provides two methods for "disincorporation." First, a city is automatically disincorporated if less than 150 electors residing within the limits of any incorporated city cast ballots at any general election. Second, a board of county commissioners possesses the authority to disincorporate a city upon petition of a majority of the legal voters residing within the limits of the affected city.³¹ Chapter 268 allows city government expansion of boundaries through annexation. An area of proposed annexation must be contiguous to the city.

Annexation may be achieved through two methods. First, the city governing board may pass a resolution of annexation, publish a notice, and set a public hearing. Annexation is accomplished only if a majority of the property owners in the affected area do not protest the annexation. Second, annexation is accomplished if all of the property owners in the affected area sign a petition requesting the governing body of the city to annex the area.³²

Each special district is the result of a specific enactment of the legislature. Special districts possess only those powers given to them by the legislature.³³ Some special districts are county-wide; others are established to coincide with the area of the problem to be addressed or the service to be provided. Nevada's seventeen school districts have coterminous boundaries with the counties; however, school districts are governed separately by school boards. Each school board appoints a professional manager, the superintendent of instruction, who administers the schools in the district.³⁴

Cities can own and operate facilities outside city limits; several have airports and water treatment plants or wells. Some areas that are scheduled for annexation are part of county plans and probably already receive some city services. The two urban

counties of Washoe and Clark have encountered this type of overlap.

Functions of Local Government

Functional Responsibilities

The functional responsibilities of Nevada local government are specifically set forth and controlled by the legislature. Local governments possess little functional autonomy. A county has the authority to create an office of the public defender, to establish a law library, and to appoint a road supervisor and manager. Counties may, with specific legislative approval, combine offices such as district attorney and public administrator. The functional responsibilities of counties include government administration, public safety, public works, judicial administration, health, sanitation, welfare, libraries, culture, recreation, administration of elections, administration of records and information, land-use control, building codes, finances, and ordinance-resolution formulation. Counties also possess authority over property assessment, tax collection, and licensing.³⁵

The functional responsibilities of city government are specifically set forth and controlled by the legislature through special charters, general charters, and legislative enactments. Depending on the nature of the charter, cities are governed by a mayor-council or commission form of government and may employ a professional manager. The state mandates a clerk, treasurer, attorney, and a municipal court. The functional responsibilities of cities include government administration, public safety, public works, judicial administration, public health, libraries, recreation, land-use control, provision of utilities, granting of franchises, licensing and regulation of businesses, and formulation of ordinances.³⁶

Subject to county approval, unincorporated towns can assume authority similar to that of cities. Land use and tax rates remain county functions and are not assumed by unincorporated towns. Special districts are specifically created by, and their functional responsibilities are set forth in, legislative enactments. The types and responsibilities of special districts include fire protection, libraries, water, sewer, flood control, hospitals, airports, convention centers, redevelopment, fair and recreation, housing, and local general improvement. Local general improvement districts possess the most autonomy by providing up to seventeen specific services. The only significant powers not provided to general improvement districts are police protection services, planning, and zoning.³⁷

Interlocal cooperation is achieved through mechanisms established by legislative enactment. Special districts have been established to serve as regional entities (in which counties and cities are represented) to facilitate interlocal cooperation and policy goals. The Interlocal Cooperation Act allows for interlocal contracts, joint exercise of power, and the consolidation of governmental services.³⁸

Administrative Discretion

Local governments in Nevada are afforded little discretion concerning administrative rules and procedures. Statutes delineate administrative procedures for county governments. General charters, special charters, and statutes delineate administrative procedures for city governments. Local government financial administration is uniform by virtue of various statutes, including the Local Government Budget Act, as is public personnel administration. Local governments employ a merit system, and personnel administration is legislatively determined under the Local Government Employee-Management Relations Act. Local governments may establish employee-management relations boards, and public employees may form employee organizations and engage in collective bargaining, but strikes are illegal. The Public Employees Retirement Act regulates the administration of public employee retirement benefits. The legislature has also provided for group insurance and medical and hospital services for employees of local government.⁴³

The Administrative Procedure Act applies to local government in the areas of fiscal administration, public personnel administration, planning, and zoning. Also limited is local governments' discretion concerning contracting and purchasing authority. The Local Government Purchasing Act imposes competitive bidding requirements and allows local governments to purchase supplies, materials, and equipment through the state Department of Administration.⁴⁴

The legislature has authorized counties and cities to establish planning commissions and to enact ordinances regarding land use, planning, and zoning. Chapter 278A establishes standards, conditions, and procedures for the authorization of planned developments.⁴⁵ In 1989 impact-fee legislation was enacted by the legislature as a way for local governments to require builders to pay for some of the roads, sewers, drainage projects, and water lines necessary for new development.⁴⁶ The legislature has afforded local government little functional autonomy concerning planning and zoning matters; however, the lack of a state plan for guidance in orderly growth and the existence of diverse economies across Nevada has resulted in "fend for yourself planning" among local governments.⁴⁷ The state's statutory control over local planning and zoning matters is so detailed as to specify the time limits for submission of final subdivision maps to a planning commission and to limit the ability of local governments to deny certain kinds of land divisions.

Specific legislative enactments have mandated interlocal cooperation for planning. The Tahoe Regional Planning Agency (TRPA) is a multistate planning agency established pursuant to an interstate compact. The authority of local government concerning the location and construction of all public works, planning, subdivision regulation, and zoning is subordinated to the powers of the TRPA. In 1989 the legislature mandated local governments in Washoe County to cooperate and develop a regional plan; if local governments in Washoe County were unable to

cooperate, the legislature itself would have developed a land-use plan.⁴⁸

Economic Development

Local governments in Nevada lack the authority to engage in development activities in the absence of specific enabling legislation enacted by the legislature. The legislature allows local governments to engage in urban renewal, to establish an urban renewal agency, and to issue bonds. Local governments may designate redevelopment areas and formulate redevelopment plans. Local governments have been given the authority to establish historic districts and issue revenue bonds for industrial development.⁴⁹

*Fiscal Autonomy of Local Governments**Local Revenues*

Beginning in the late 1970s, Nevada moved from being more decentralized to more centralized than the average state and local revenue system in the United States.⁵⁰ In 1979 the legislature enacted a tax relief package; in response, voters defeated a constitutional initiative to limit local property taxes similar to California's Proposition 13. As a result, control of local revenues has been shifted from local elected officials to the legislature, its Interim Finance Committee, and the Nevada Tax Commission. Nevada currently possesses one of the most centralized fiscal systems in the United States. The state controls, in one way or another, approximately 80 percent of the total revenues of local governments.⁵¹ Local governments are subject to an extensive scheme of state revenue controls. The state, the legislature, and the Nevada Tax Commission control every significant source of local government revenue by determining (1) the rate that may be levied, (2) the base on which the rate may be levied, (3) the total amount of revenue that can be raised, and (4) how revenue will be used or distributed.⁵² The strictest state controls have been applied to sales and property taxes, the two most significant sources of local government revenue.⁵³

Before the reduction in local property taxes in 1979 and a tax shift in 1981, only school district revenue was highly centralized. Local governments primarily survived on their own tax base. State-mandated property tax reduction was compensated for by increased reliance on sales tax revenue, to the detriment of rural units of local government without commercial centers. In 1981 the legislature enacted a tax shift program to jointly limit property tax revenue and to redistribute sales tax revenue to make up for lost property tax revenues. In 1989 the legislature uncoupled the limits on property tax revenue growth from the sales tax distribution. "Fair share" legislation enacted in 1997 designated counties with a significant local retail sales tax base as exporting counties that depended on their own sales tax-generated revenues. Smaller counties were designated as importing counties, and those that were unable to generate their own sufficient sales

tax revenues were supplemented by sales tax revenues transferred from exporting counties.⁵⁰ The net effect of the state's action to uncouple property and sales taxes has been an improved intercounty revenue distribution system.⁵¹

State control over the sales tax is extensive. The state determines what is taxable and the rate and distribution of revenue. Sales tax revenues are collected by the state and distributed to local government, first among counties and then within counties (revenue is distributed to the county and each incorporated city within the county). Intracounty distribution is fairly straightforward. If there are no incorporated cities, the county receives all of the revenue. If incorporated cities exist within the county, revenues are apportioned to the county and each incorporated city on the basis of their respective populations.⁵²

The property tax is subject to the centralized and comprehensive control of the state. The state determines (1) the definition of taxable property, (2) assessment practices, (3) the ratio of assessed-to-market value, (4) the maximum tax rate, and (5) the rate of revenue growth. The constitution limits the total property tax level to \$5.00 per \$100 of assessed value. The legislature has further restricted the total property tax level to \$3.64 per \$100 of assessed value.⁵³ A local property tax rate is the composite of many overlapping tax entities, including the county, cities, and special districts. The maximum tax rate local governments may impose is figured by dividing the previous year's allowable revenues (plus 6 percent) by the current year's value of property on the preceding year's tax roll. This tax rate is then applied to all property, including new property. The tax rate may be increased beyond this limit only by a local election or appeal to the Nevada Tax Commission.⁵⁴

The state has also imposed a centralized and comprehensive fiscal scheme for less important local governmental revenue sources resulting from taxes. The state establishes by formula the rate, use, and distribution of revenues derived from cigarette, liquor, real property transfer, basic motor vehicle privilege, supplemental motor vehicle privilege, and motor vehicle fuel taxes.⁵⁵ Specific legislative enactments allow certain local governments to impose a lodging room tax and to impose an additional motor vehicle fuel tax for road infrastructure purposes. State law provides counties and cities the fiscal autonomy to impose various fines and fees for permits and licenses.⁵⁶

The state has imposed on independent school districts a centralized and comprehensive fiscal scheme. The state distributes revenues to the school districts based on formulas that take into account each county's sales tax revenues, motor vehicle privilege tax, assessed property values, number of special education units, and weighted enrollment. Many special districts generate revenue from fee-for-service charges.⁵⁷

Although the constitution previously limited the level of state general-obligation debt to 1 percent of the state's assessed property value, voters approved a ballot question in 1990 that increased the limit to 2 percent. Debt issued for the purpose of pro-

tecting or preserving the state's property or natural resources is excepted from the 2 percent constitutional debt limit. The state limits local government issuance of general-obligation debt by requiring voter approval in a referendum.⁵⁸ The state also limits local government issuance of general-obligation debt by establishing caps that are tied to total assessed property value.

Counties can issue general-obligation debt up to a limit of 10 percent of the county's assessed value. The general state limit on outstanding general-obligation debt for cities is 30 percent; however, city charters set limits of 10–40 percent. Cities are subject to an additional limit of 20 percent of assessed value on the value of outstanding warrants, certificates, and other nonbond general-obligation debt. The general-obligation debt limit for towns is 25 percent; for school districts, it is 15 percent. The general-obligation debt limit for special districts varies from none for the Washoe County Airport Authority, up to 50 percent for general improvement districts, to 3 percent for fair and recreation boards in counties with populations of less than 250,000.⁵⁹

Nevada has established an allocation system based on relative population for allowable private activity debt for counties and cities. In 1987 the legislature enacted a state bond bank to assist local governments in undertaking natural resource projects.⁶⁰

Local Expenditures

Local governments possess little autonomy in terms of local expenditures because of the centralized fiscal and functional status of state and local intergovernmental relations. Much of local government spending is prescribed by federal- and state-mandated functions and procedures.⁶¹ The major categories of county and city expenditures are general government, public safety, judiciary, public works, culture and recreation, community support, health and sanitation, welfare, debt service, and depreciation and amortization. The major categories of school district expenditures are instruction, administration, building operation, student and staff support, and central office. Special-district expenditures consist of current operations (for example, general government, public safety, public works, intergovernmental services, sewers, and miscellaneous services), debt service (that is, principal interest expense), and depreciation and amortization.⁶²

A series of statutes and the Local Government Budget Act set forth the requirements and control the form and substance of local government budgets. The state imposes budgeting requirements on both tentative and final budgets, public inspection, quarterly reports, financial accounts, types of funds, adjustment of expenses and revenues, accounting, audits, and review of annual audits by the state Department of Taxation.⁶³ The state and local governments are required to have balanced budgets. Statutes set forth the conditions constituting a severe financial emergency. After a hearing, the Nevada Tax Commission is authorized to enter an order requiring the state Department of Taxation to take over the management of local governments.⁶⁴

State Government Grants-in-Aid to Localities

State grants-in-aid have little significance, because the state's centralized fiscal system effectively transfers money from the state to local governments, and revenue is distributed on an intercounty and intracounty basis.

Unfunded Mandates

Local government operates within the structure of a highly centralized fiscal system and has lacked the fiscal capacity to raise independently own-source revenues to fund state mandates. Nevada has responded to various federal unfunded mandates by passing them to local governments without the requisite revenues to comply with such mandates. To further exacerbate the problem, Nevada has imposed its own unfunded mandates on local government. In 1992 the Nevada Association of Counties balloted a referendum question against unfunded state mandates. In a general election, 82 percent of the voters said "no" to unfunded state mandates. A 1993 legislative enactment ended unfunded state mandates and required the legislature to identify a specific funding source for any new or expanded program.⁶⁵

Access to Local Government

Local Elections

Nevada employs a direct, closed primary election system and requires voter party registration. Primary elections are held in September, and general elections are held in November of even-numbered years for state and county officials. The state mandates the election of commissioners, clerk, treasurer, recorder, auditor, assessor, district attorney, and sheriff at the county level. The legislature is authorized to increase, diminish, consolidate, abolish, and establish the election, duties, and compensation of elected county officials.⁶⁶

Elected county officials run on a partisan ballot and serve four-year terms.⁶⁷ The legislature has mandated a seven-member board of commissioners in heavily populated counties and a five-member board of commissioners in moderately populated counties, with elections held on a district basis.⁶⁸ Lightly populated counties have the discretion to establish a three- or five-member member board of commissioners upon passage of a county ordinance and voter approval in a primary or general election. Elections for three- and five-member boards are held on an at-large basis; however, district elections may be adopted upon board action or citizen petition and voter approval in a general election.⁶⁹

Elected city and school board officials run on a nonpartisan ballot and serve four-year terms. Primary elections are held in May, and general elections are held in June of odd-numbered years for city and school board officials. The electoral structure of special-charter cities varies according to the legislative authorization contained in each charter. All special-charter cities

elect the city council, which consists of three to six members, on an at-large or district basis. Many cities elect a mayor, attorney, municipal judge, and clerk. All Chapter 266 cities elect a mayor and the city council. In first-class cities, the council must consist of nine members, with one elected from each of the city's eight districts and one elected at large. In second- and third-class cities, the council must consist of three or five members as established by city ordinance, with one elected from each of the city's three or five districts. In second- and third-class cities, the council may establish at-large elections by city ordinance; however, members must reside in the district they represent. The electoral structure of Chapter 267 commission cities varies according to the provisions of each charter as proposed by citizen petition. The conduct of local government campaigns are subject to the state's Campaign Practices Act.⁷⁰

Citizen Controls over Actions of Local Officials

Nevadans have a long tradition of taking matters into their own hands at the polls and have shaped the structure, operation, and direction of state and local government. The original constitution provides for impeachment of all state officers (except justices of the peace) for misdemeanor offenses or malfeasance in office.⁷¹ The legislature is authorized to provide for the removal from office of other civil officers for malfeasance or nonfeasance; city councils are allowed to expel members for similar reasons.⁷² Constitutional amendments established recall in 1912, initiative in 1912, and referendum in 1904, allowing citizens control over the actions of all state and local government officials.

To effectuate a state or local recall election, a recall petition must be signed by at least 25 percent of those registered voters who voted in the preceding general election in which the official was elected. At the county and city levels, initiative petitions must contain the signatures of at least 15 percent of those registered voters who voted at the last preceding general county or city election. At the county and city levels, referendum petitions must contain the signatures of at least 10 percent of those registered voters who voted at the last preceding general county or city election.⁷³ The legislature has enacted "sunshine" legislation applicable to state and local governments that provides for open meetings and open records.

State-Local Relations

Local governments exist and operate in accordance with the philosophy of Dillon's Rule; for any authority not directly conferred by the constitution, localities depend entirely on the legislature. Local governments possess little autonomy in terms of local revenues and expenditures because of Nevada's centralized fiscal system. The constitution and legislature have provided local government home rule in name only.

The legislature historically has resisted expanding local governments' scope of authority through legislatively enacted

home rule. The recent trend has been in the direction of less local autonomy. The 1979 and 1981 tax relief enactments resulted in control of local revenues being shifted from local elected officials to the state. State fiscal centralization resulted in less local autonomy.

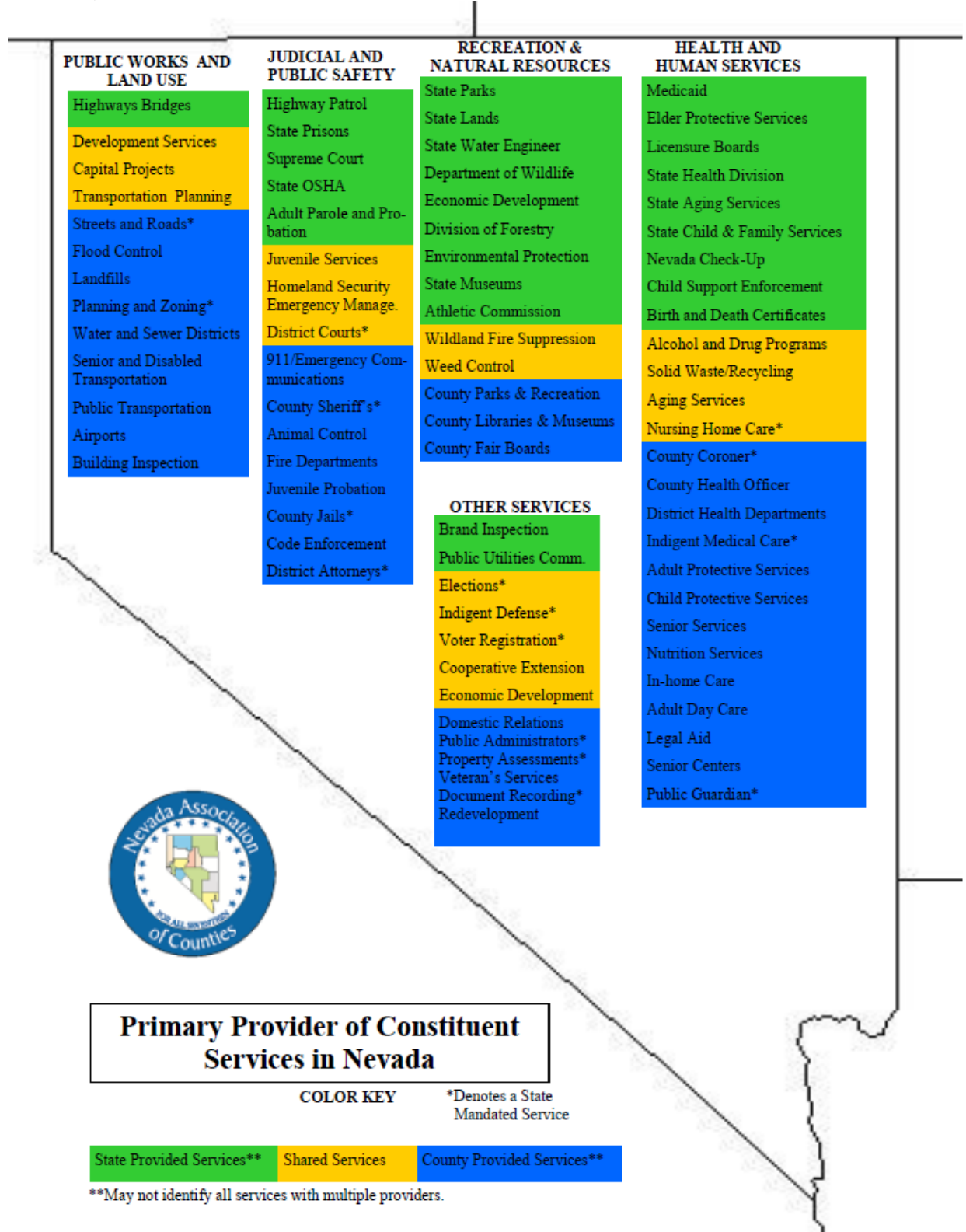
Nevada's adherence to the philosophy of Dillon's Rule has recently been criticized as outdated and inappropriate in contemporary Nevada.⁷⁴ Home rule and local government autonomy is an emerging issue because of recent social, demographic, and economic changes. State-level centralization and control regarding local government was perhaps an appropriate response for the state up until the 1960s, because Nevada was essentially a rural state with undifferentiated economies. Nevada is no longer a homogeneous state and probably never will be again. Changing demographics mean that the state must confront the dichotomous needs of urban and rural Nevada. Intergovernmental fiscal relations have emerged as possibly the most important fiscal issue facing governments in Nevada. The state legislature may well be moving in the direction of granting autonomy to local governments as evidenced by the enactment of a 1997 statute that allowed all counties the option of increasing the sales tax by one-eighth of a cent.⁷⁵ A movement in the direction of local government home rule and autonomy may well be the solution to adequately addressing Nevada's diverse needs and demands.

Notes

1. State of Nevada, Department of Administration, *Perspectives: A Biennial Report of Nevada State Agencies* (Carson City, Nev.: Department of Administration, 1992); Glen Atkinson and Ted Oleson, "Nevada Local Government: Coping with Diversity under Centralization," in *Legislative Issues: 1993, Nevada Public Affairs Review*, ed. Jill M. Winter and Glen Atkinson (Reno: Senator Alan Bible Center for Applied Research, University of Nevada, 1993).
2. Nevada's population grew from 494,900 in 1970, to 800,508 in 1980, to 1,201,833 in 1990. Nevada remains one of the least densely populated states, with 11 people per square mile, and is the tenth most urbanized state in the nation. Nevada is composed of seventeen counties. Clark County (the Las Vegas area) and Washoe County (the Reno area) are urban, whereas the other fifteen counties are rural. Robert P. Morin, "Nevada," in *Proceedings Roundtable: State Budgeting in the 13 Western States*, ed. Robert Huefner, E. Ted Hebert, and Carl Mott (Salt Lake City: Center for Public Policy and Administration, University of Utah, 1996), 80; State of Nevada, Department of Human Resources, *State Health Programs, Health Facilities and Services, and Demographic Information Nevada Health Catalog* (Carson City, Nev.: Department of Human Resources, 1993), 45.
3. Eric B. Herzik and Robert P. Morin, "Nevada," in *Proceedings Roundtable: State/Local Budgeting Issues in the Thirteen Western States*, ed. Carl Mott, Daniel Sloan, and Robert Huefner (Salt Lake City: Center for Public Policy and Administration, University of Utah, 1995).
4. Russell R. Elliott, with William D. Rowley, *History of Nevada*, 2d ed. (Lincoln: University of Nebraska Press, 1987), 24.
5. Nevada legalized casino gambling in 1931. The service industries, led by gaming tourism, are the dominant force in Nevada's economy. The mining industry is significant in five rural counties: Eureka, Nye, Elko, Humboldt, and Lander Counties account for 80 percent of the gross yield from mining. Agriculture, manufacturing, and wholesale trade constitute small sources of employment and sectors of the Nevada economy. Robert D. Ebel, *A Fiscal Agenda for Nevada: Revenue Options for State and Local Government in the 1990s*, ed. Robert D. Ebel (Reno: University of Nevada Press, 1990), 31-62.
6. An individualistic political culture is characterized by a political environment in which politics is practiced as an open marketplace and in which individuals and interest groups pursue social and economic goals. Daniel L. Elazar, *American Federalism: A View from the States*, 3d ed. (New York: Harper & Row, 1984); Thomas R. Dye, *Politics in States and Communities*, 8th ed. (Englewood Cliffs, N.J.: Prentice Hall, 1994); Ann O. Bowman and Richard C. Kearney, *State and Local Government*, 3d ed. (Boston: Houghton Mifflin, 1996).
7. M. Kimberly Beal, Lindsay Fairhurst, and Judy Calder, *Public Opinion in Nevada: Selected Legislative Issues*, November-December 1996, ed. M. Kimberly Beal, Lindsay Fairhurst, and Judy Calder (Reno: Senator Alan Bible Center for Applied Research, University of Nevada, 1997), 13. Nevadans are not necessarily opposed to spending on state programs; however, they want others (such as visitors, tourists, gamblers, and corporations) to bear much of the tax burden. Jill Winter, Judy Calder, and Donald Carns, "Public Opinion on Selected Legislative Issues: November 1992," in *Legislative Issues*, ed. Winter and Atkinson.
8. Robert P. Morin, "The Fragmented Executive Branch," in *Towards 2000: Public Policy in Nevada*, ed. Dennis L. Soden and Eric Herzik (Dubuque, Iowa: Kendall/Hunt, 1997).
9. The state constitution provides for a bicameral legislature. The state senate is composed of twenty members serving four-year terms. The Nevada Assembly is composed of forty-two members serving two-year terms. A. Constantina Titus, "The Legislature," in *Towards 2000*, ed. Soden and Herzik.
10. The Supreme Court expanded from five to seven members beginning with the 1998-1999 term. Nevada voters have repeatedly rejected proposed constitutional amendments to create an intermediate appellate court. Dennis Neiderlander, "The Judicial Branch," in *Towards 2000*, ed. Soden and Herzik.
11. Poor relations between the Utah Territory and federal government in the 1850s and an unsuccessful petition submitted to the California Legislature for annexation in 1853 led to Nevada becoming a separate territory in 1861. The California gold rush, poor Utah Territory-federal government relations, the discovery of silver in the Comstock Lode, and President Lincoln's desire to strengthen the Union position by securing additional antislavery congressmen during the Civil War and Reconstruction resulted in Nevada securing statehood. Eleanor Bushnell and Don W. Driggs, *The Nevada Constitution: Origin and Growth*, 6th ed. (Reno: University of Nevada Press, 1984), 1-18.
12. The Nevada Constitution has been amended almost 120 times. Don W. Driggs and Leonard E. Goodall, *Nevada Politics and Government: Conservatism in an Open Society* (Lincoln: University of Nebraska Press, 1996), 67.
13. Donald L. Shalmy and Elizabeth N. Fretwell, "Home Rule: History, Types and Benefits," in *Legislative Issues: 1995, Nevada Public Affairs Review*, ed. Jill M. Winter (Reno: Senator Alan Bible Center for Applied Research, University of Nevada, 1995).
14. The Nevada Territorial Legislature established nine counties on November 25, 1861, and two additional counties were subsequently established when Nevada was a territory. The state legislature established three counties in the 1800s and three counties in the 1900s. State of Nevada, Secretary of State, *Political History of Nevada*, 9th ed. (Carson City, Nev.: Secretary of State, 1999).
15. Nevada Constitution, Article VIII.
16. The Carson City-Oremsby County consolidation has been the only city-county consolidation in Nevada. State of Nevada, *Political History of Nevada*.
17. Nevada Constitution, Article XI.
18. Bushnell and Driggs, *The Nevada Constitution*.
19. *County of Pershing v. Sixth Judicial District Court*, 43 Nev. 78, 181 Pac. 960, 183 Pac. 314 (1919); *State ex rel. Wichman v. Gerbig*, 55 Nev. 265, 24 P. 313 (1933); AGO 91-3 (4-9-91); AGO 92-1 (2-3-92).
20. Bullfrog County contained the proposed nuclear waste storage site at Yucca Mountain and had zero population and a corresponding lack of need for public funds and services. The Bullfrog County legislature created a three-member board, appointed by the governor, to govern the county and to apportion the federal funds to other Nevada counties on a formula basis. State of Nevada, *Political History of Nevada*; Driggs and Goodall, *Nevada Politics and Government*.
21. *Rosenstock v. Swift*, 11 Nev. 128 (1876).
22. *State ex rel. Williams v. Second Judicial District Court*, 30 Nev. 25, 94 Pac. 70 (1908).
23. Nevada Constitution, Article VIII.

24. Nevada ranks forty-seventh out of the fifty states in smallest number of units of local government. Nevada has seventeen counties, seventeen independent school districts, seventeen unincorporated cities, and forty-four towns; the remainder are special districts. Ebel, *A Fiscal Agenda for Nevada*.
25. State of Nevada, *Political History of Nevada*.
26. Ebel, *A Fiscal Agenda for Nevada*.
27. Eleven of Nevada's seventeen incorporated cities are governed under special charters established by the legislature. Special charters are specifically drawn for the city named in the charter. Ebel, *A Fiscal Agenda for Nevada*.
28. Five cities are incorporated under the provisions of Chapter 266. Ebel, *A Fiscal Agenda for Nevada*.
29. One city is incorporated under the provisions of Chapter 267. Nevada Revised Statutes (1995), Chapters 266, 267.
30. Nevada Revised Statutes (1995), section 268.010.
31. Nevada Revised Statutes (1995), Chapter 265.
32. Ebel, *A Fiscal Agenda for Nevada*.
33. Approximately fifteen chapters of the Nevada revised statutes cover different types of special districts. Ebel, *A Fiscal Agenda for Nevada*.
34. Nevada Constitution, Article XI. James W. Guthrie, Gerald C. Hayward, Michael W. Kirst, Julia E. Koppich, Mary Lee McCune, and James R. Smith, *Nevada School District Organization and Control: Meeting the Challenges of Growth and Diversity* (Berkeley, Calif.: Management Analyses and Planning Associates, 1996).
35. Deloitte and Touche LLP, *Lake Tahoe, Nevada* (Reno: Deloitte and Touche, 1997).
36. Driggs and Goodall, *Nevada Politics and Government*.
37. Ebel, *A Fiscal Agenda for Nevada*.
38. Airport and housing authorities, the Las Vegas Convention Authority, and the Reno Sparks Convention and Visitors Authority are examples. Nevada Revised Statutes (1995), Chapter 277.
39. Nevada Revised Statutes (1995), Chapters 244, 268, 354, 288, 286, 287.
40. Nevada Revised Statutes (1995), Chapters 233B, 332.
41. Nevada Revised Statutes (1995), Chapter 278, sections 268.110-268.300, 278A.010-278A.590.
42. Reno is the only city that uses impact fees as a significant part of a local growth management strategy. Robert E. Parker, "Urban Growth Management in Southern Nevada," in *Towards 2000*, ed. Soden and Herzik.
43. Connie Anderson, Glen Atkinson, and Theodore Oleson, "Fiscal Interdependence and the Need for Regional Cooperation," in *Legislative Issues*, ed. Winter, 69.
44. Anderson, Atkinson, and Oleson, "Fiscal Interdependence and the Need for Regional Cooperation," in *Legislative Issues*, ed. Winter, 69.
45. Nevada Revised Statutes (1995), Chapter 279, sections 384.005, 349.400-349.670.
46. Ebel, *A Fiscal Agenda for Nevada*, 368.
47. Fiscal centralization refers to the degree to which the state restricts local government autonomy to determine the level and mix of revenues and expenditures. Atkinson and Oleson, "Nevada Local Governments," in *Legislative Issues*, ed. Winter and Atkinson; Steven D. Gold, *Reforming State-Local Relations: A Practical Guide* (Denver: National Conference of State Legislators, 1989).
48. Atkinson and Oleson, "Nevada Local Governments," in *Legislative Issues*, ed. Winter and Atkinson.
49. Ebel, *A Fiscal Agenda for Nevada*.
50. Nevada exporting counties include Clark, Churchill, Carson City, Elko, Washoe, Eureka, and Humboldt. Nevada importing counties include Douglas, Esmeralda, Lander, Lincoln, Lyon, Mineral, Nye, Pershing, Storey, and White Pine.
51. Atkinson and Oleson, "Nevada Local Governments," in *Legislative Issues*, ed. Winter and Atkinson.
52. *Ibid.*
53. Ebel, *A Fiscal Agenda for Nevada*.
54. Atkinson and Oleson, "Nevada Local Governments," in *Legislative Issues*, ed. Winter and Atkinson.
55. State of Nevada, Legislative Commission of the Legislative Counsel Bureau, *Laws Relating to the Distribution among Local Governments of Revenue from State and Local Taxes*, Bulletin No. 97-5 (Carson City, Nev.: Legislative Commission of the Legislative Counsel Bureau, 1997).
56. Lionel Sawyer and Collins, *The Feasibility of Forming a Separate Political Subdivision at Lake Tahoe* (Reno: Lionel Sawyer and Collins, 1997).
57. Deloitte and Touche LLP, *Lake Tahoe, Nevada*.
58. Nevada Constitution, Article IX. In addition to Nevada, forty-one other states impose the requirement of voter referendum approval of government general-obligation debt. Ebel, *A Fiscal Agenda for Nevada*, 678-703.
59. Ebel, *A Fiscal Agenda for Nevada*.
60. Local government natural resource projects, financed through the state bond bank, are exempt from the constitutional limit on state debt. Ebel, *A Fiscal Agenda for Nevada*.
61. Atkinson and Oleson, "Nevada Local Governments," in *Legislative Issues*, ed. Winter and Atkinson; Ebel, *A Fiscal Agenda for Nevada*.
62. Deloitte and Touche LLP, *Lake Tahoe, Nevada*.
63. Nevada Revised Statutes (1995), Chapter 354.
64. Nevada Constitution, Article IX; Ebel, *A Fiscal Agenda for Nevada*.
65. For example, Nevada has imposed an unfunded collective bargaining mandate on local governments, which has removed local governments' flexibility in their budgets and made it more difficult to finance capital facilities. Atkinson and Oleson, "Nevada Local Governments," in *Legislative Issues*, ed. Winter and Atkinson; David R. Berman, "State-Local Relations: Patterns, Politics and Problems," in the *Municipal Year Book 1994* (Washington, D.C.: International City/County Management Association, 1994). The advisory referendum question against unfunded state mandates was unanimously endorsed by all seventeen member counties of the Nevada Association of Counties. Bjorn R. Selinder, "Unfunded Mandates: An Unfair Solution to Government Budgetary Woes," in *Legislative Issues*, ed. Winter and Atkinson.
66. Nevada Constitution, Article IV.
67. Nevada Constitution, Article XV.
68. Heavily populated counties are those with 400,000 or more population; moderately populated counties are those with 100,000 or more but less than 400,000 population. Nevada Revised Statutes (1995), sections 244.016, 244.014.
69. Nevada Revised Statutes (1995), sections 244.011, 244.025, 244.027, 244.050; *State ex rel. Fall v. Kelso*, 46 Nev. 128, 208 Pac. 424 (1922); *Hanson v. Board of County Commissioners*, 75 Nev. 27, 335 P.2d 994 (1959); *Acree v. Valley*, 78 Nev. 444, 375 P.2d 545 (1962).
70. Nevada Constitution, Article XV; Nevada Revised Statutes (1995), Chapters 31, 213, 265, 266, 275, 276, 294A, 344, 465, 470, 517, 573, 662. Cities with populations of 20,000 or more are classified as first-class cities; with more than 5,000 and less than 20,000, as second-class cities; with 5,000 or less, as third-class cities. Nevada Revised Statutes (1995), sections 266.035, 266.095, 255.220.
71. The impeachment procedure involves a two-step process. First, impeachment charges must be brought by a majority of the elected members of the Nevada Assembly. Second, conviction requires the concurrence of two-thirds of the elected members of the state senate. An impeachment conviction does not extend further than removal from office and disqualification to hold any office of honor, profit, or trust under the state. Nevada Constitution, Article VII.
72. City councils possess the authority to punish council members for disorderly conduct and may expel a member for cause with the concurrence of two-thirds of the council members. Nevada Constitution, Article VII; Nevada Revised Statutes (1995), section 266.240.
73. Nevada Constitution, Articles II, XIX.
74. Shalmy and Fretwell, "Home Rule," in *Legislative Issues*, ed. Winter.
75. Bill O'Driscoll, "Nevada's longest, costliest session ends," *Reno Gazette-Journal*, 8 July 1997, 1A.

2) Provision of Government Services in Nevada



Municipal Services In Nevada

PUBLIC WORKS

Streets
Sidewalks
Curb & Gutter
Storm Drainage
Parking
Overpass/Underpass
Parks
Sanitary Sewer
Water
Electric Facilities
Communication Facilities
Capital Projects
Other Utilities
Cemeteries

ECONOMIC DEVELOPMENT

Business Licenses
Public Property Sale of Lease
Redevelopment Agencies
Granting of Franchises
Condemnation

OTHER COMMUNITY SERVICES

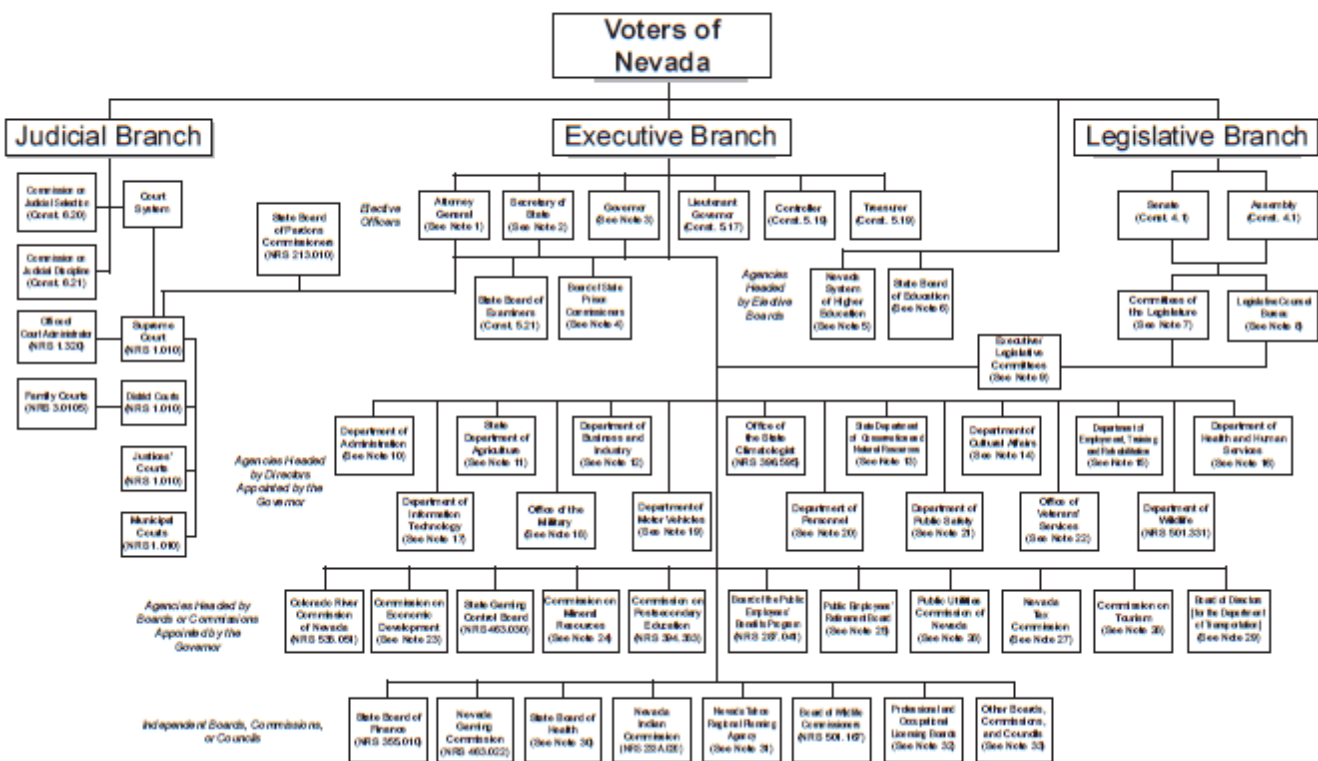
Ordinances
Resolutions
Orders
Document Recording
Revenue & Finance
Elections
Planning & Zoning
Utilities

PUBLIC SAFETY & PUBLIC HEALTH

Municipal Court
Police
Fire
Animal Control
Nuisance Abatement
Fines & Penalties
Traffic Control
Parking
Arson Investigation
Building Inspection
Railway Regulation
Security Officers
Board of Health



Nevada State Government



APPENDIX D

Excerpts From a Report Published by the National Association of Counties Titled,
County Government Structure: A State by State Report, Third Edition, 2008

County Government Structure: A State by State Report



Alaska

Alaska's boroughs derive their powers from the state constitution and state statutes. Boroughs and cities are distinct legal entities (municipalities) incorporated under state laws to perform or provide both regulatory and proprietary functions such as law enforcement, zoning, utilities, and airports. There are 18 boroughs in the state and the remaining area is considered unorganized boroughs. Law authorizes three classes of General Law Boroughs and additional provisions are made for the adoption of home rule charters. First class and second class boroughs are almost identical, except that first class boroughs can acquire supplemental area-wide powers by ordinance rather than by referendum. Additionally, first class and second class boroughs must perform three area-wide duties: education, planning and zoning, and tax assessment and collection. Third class boroughs assume only two mandated powers, education and taxation. A General Law Borough may adopt a home rule charter for its own government. The establishment of a charter commission precedes adoption. This commission proposes the needed changes that must then be passed by a simple majority of borough voters.

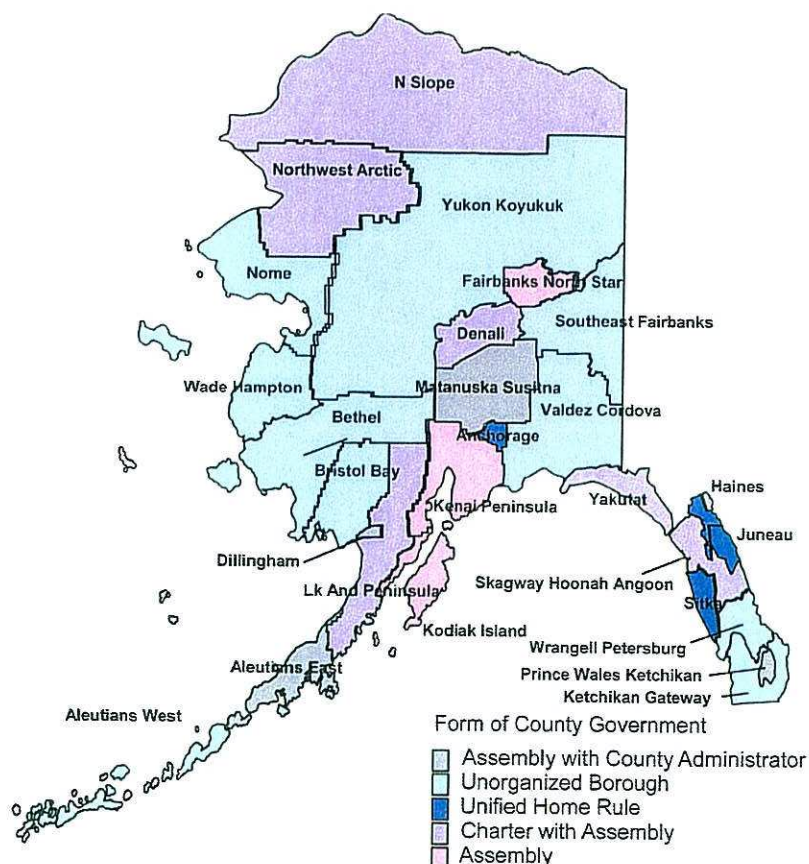
The adoption of a home rule charter provides the local government with all legislative powers not prohibited by law or charter (Article X, Sect. 11, Alaska Constitution). The charter authorizes the governing structure, functions, services, and restrictions on municipal powers in accordance with the community's situation. Additionally, boroughs may become Unified Municipalities, which are similar to city-county consolidations. This occurs when an organized borough and all cities within the borough unite, through a referendum, to form a single unit of government with a charter. Presently, there are four Unified Home Rule boroughs and they include the Municipality of Anchorage, Haines Borough, the City and Borough of Juneau and the City and Borough of Sitka. There are six Home Rule charter boroughs; these include Denali Borough, Lake and Peninsula Borough, North Slope Borough, Northwest Arctic Borough, Wrangell Borough, and the City and Borough of Yakutat.

The governing structure of a borough consists of an assembly, a legislative body ranging in size from five to eleven, which may be elected by district, at large, or a combination

of the two; a mayor elected at large; a school board; and a planning commission. The legislative powers of the borough are vested in the assembly, while the executive powers belong to the mayor. The mayor serves as a ceremonial head of government, executes official documents on authorization of the governing body, and is responsible for additional duties cited in the charter. A borough has the option to adopt the Manager Plan. In this situation, the assembly appoints a manager to serve as the chief administrative officer of the borough. Currently seven boroughs have an appointed manager or administrator, including Aleutians East, Bristol Bay, Juneau, Ketchikan, Lake and Peninsula, Matanuska-Sustina, and Sitka. If a borough does not choose the Manager Plan, then the mayor serves as the chief administrator and confers the powers of a manager or an appointee.

In 2007, two new boroughs were established: the Borough of Wrangle and the Borough of Skagwy.

Alaska is one of two states that does not have an elected Sheriff, but instead has elected police chiefs. In addition, the remaining row officers in Alaska are appointed positions.



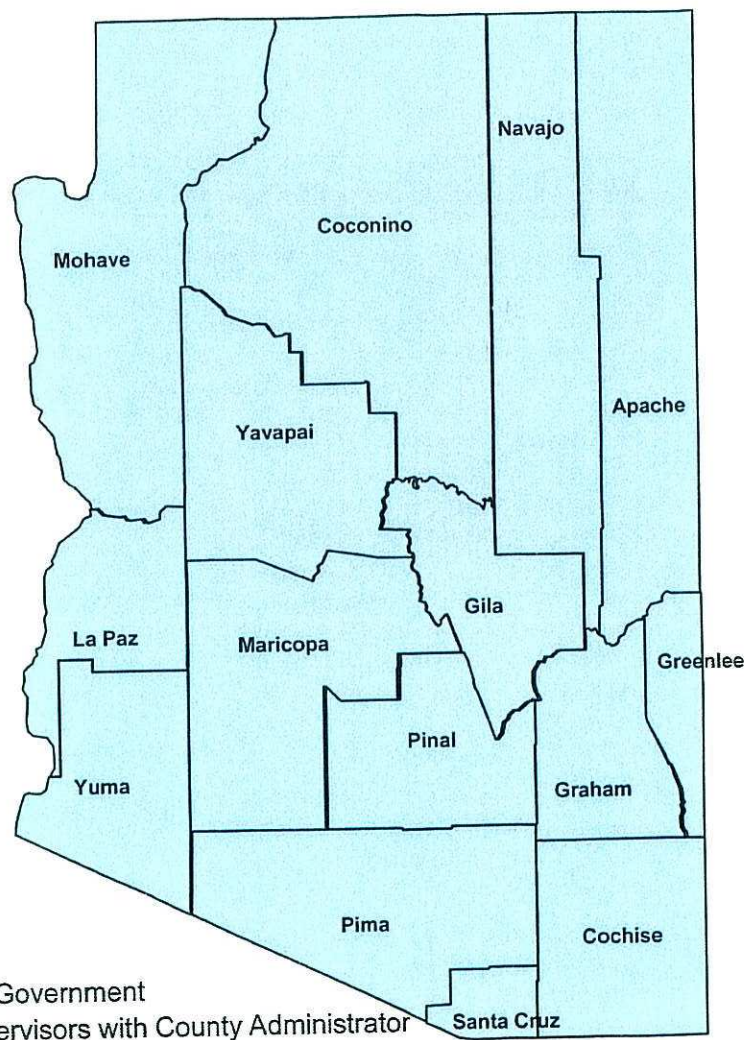
Arizona

Arizona's counties derive their powers from four provisions of the state constitution that provide for the creation of counties and their officers, while empowering the legislature to choose the mission of counties. Arizona county government is based on the Commission Form. Each county elects a three-member board of supervisors, from single-member districts, as its governing body. Two populous counties, Maricopa and Pima, have five-member boards, and, under local option, three other counties (Coconino, Navajo, and Yuma) have increased board size from three to five members. Few changes have occurred in county governmental structure since territorial days. The addition of an appointed county administrator to assist the board in its administrative duties represents the most significant change in Arizona county government structure since statehood. Although all of the state's 15 counties employ an administrator or manager, the position is not authorized by the state constitution or by statute.

Arizona counties have no chief executive officers. Instead, the board of supervisors performs the function of a chief executive. The board only performs this function in a limited capacity, however, since a great deal of the county's business is distributed among seven other elected county officials. These officials, known as row officers or constitutional officers, who serve as co-equals to the board. The board of supervisors has no legal authority over them except for budget review and appropriations. The row officers are Sheriff, County Attorney, Recorder, Treasurer, Assessor, Superintendent of Schools, and Clerk of the Superior Court. All of these posi-

tions except the Treasurer and the Clerk of the Superior Court are required by the state constitution to be elected positions.

Arizona counties are directed by the state to both fund and administer the typical host of services. Since counties are the administrative arm of the state government, they do not have the right to provide services other than those mandated or authorized by the state. The 13 smaller Arizona counties do not have available to them charter or home rule authority, but do have substantial authority for establishing departments and intergovernmental agreements to meet efficiently the modern-day needs of county constituencies. In 1992, a voter-approved change to the state constitution provided for a county charter process for Maricopa and Pima counties. The voters in the two counties did not approve either charter.



California

The California constitution historically provided counties with two options, Charter or General Law status. Presently, 44 of the state's 58 counties function under the General Law form of government, while 14 have adopted charters, including one city-county consolidation.

The General Law counties derive their governing authority from Article XI of the California Constitution and state statutory law as contained in the Government Code. As legal subdivisions of the state, counties also administer state programs at the local level in areas such as health and criminal justice. The counties traditionally consist of a board of supervisors and three

mandated elected positions (Sheriff, District Attorney and Assessor). A county board of supervisors or a charter commission formed within the county may propose a charter. The fourteen counties which have adopted charters are Alameda, Butte, El Dorado, Fresno, Los Angeles, Orange, Placer, Sacramento, San Bernardino, San Diego, San Francisco, San Mateo, Santa Clara, and Tehama.

California has given its charter and general law counties considerable latitude by offering three legislatively approved forms of government to choose from: Commission, Appointed County Administrator, or Elected Executive (county mayor). In the three "pure" commission counties (Colusa, Modoc and Shasta), the legislative and executive powers are exercised through the board of supervisors elected from single-member districts. In the Appointed Administrator form, also known as the appointed executive form and by other names in California, the board of supervisors oversees an appointed executive and retains authority over final budgetary decisions. San Mateo and Placer both adopted this form through the charter process and are unique in that their governing boards are elected at large to represent specific districts of residency.

The Elected County Executive form of government is an option only for counties adopting a charter. San Francisco County, the state's only city-county consolidation, is currently the only county operating with an elected executive. San Francisco, in effect, has two executives: the mayor who is elected at large and the appointed chief administrative officer. While the 11-member board of supervisors acts as the legislative body, the functions under the mayor's jurisdiction are given policy direction by citizen commissions whose members are appointed by the mayor. The mayor has the authority to veto board actions, but the veto may be overridden by a two-thirds vote of the board. The chief administrative officer operates a major set of city-county departments and services and is shielded by the charter against interference from the mayor or board.

Many row officers vary by county if each is elected or appointed. Only the County Attorney is appointed in every county.



Form of County Government

- Charter - Board of Supervisors with County Administrator
- Board of Supervisors with County Administrator
- Board of Supervisors
- City-County Consolidation

Colorado

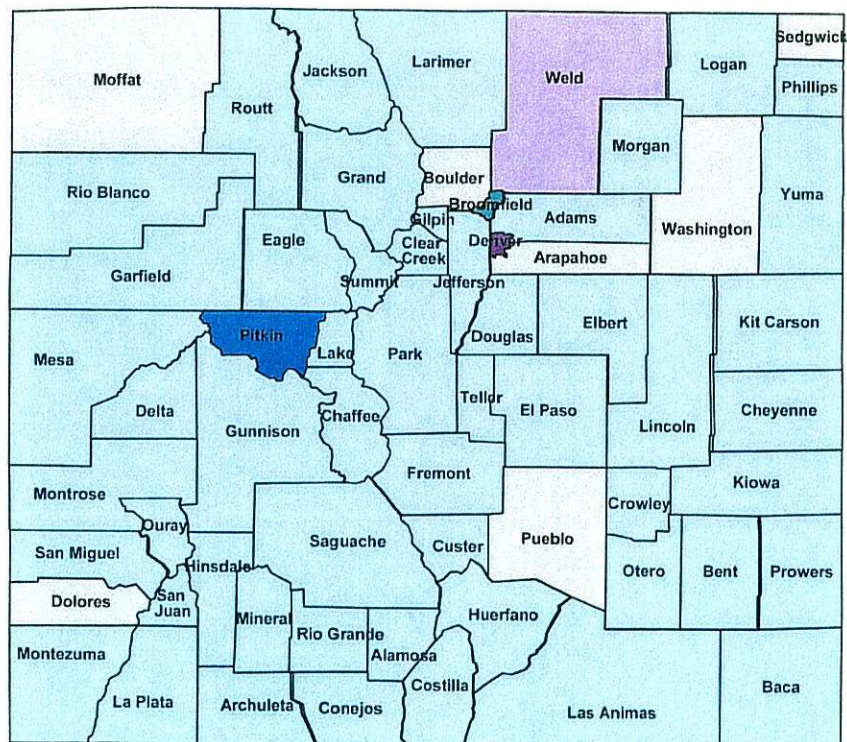
Colorado counties derive their powers from three principal sources: the Colorado constitution, the Colorado revised statutes, and case law developed by Colorado and federal courts. Article XIV of the Colorado constitution lists the major provisions concerning county government activities and its organization. Boards of county commissioners serve as both the administrative and policy-making bodies of counties. In most counties the board is composed of three members with an option available for a five-member board in counties with populations greater than 70,000 or counties having a home rule charter. The entire county elects the board, but its members are required to reside within established county districts. Additionally, the board may create the offices of county manager or administrative assistant to the commissioners, county budget officer, and any other office required for the efficient management of county business.

Colorado counties serve two vital roles as part of the state government and of being a local government. Counties provide the traditional services for which they were originally founded in addition to assuming newer responsibilities such as recreation and consumer protection plans. As an administrative branch of government, counties do not have a court system of their own. They possess no inherent legislative powers and may exercise only those powers delegated to them by the general assembly.

The organizational structure of all Colorado counties is the same with four exceptions. The City and County of Denver is the state's only city-county consolidation. The City and County of Broomfield was created by removing the city of Broomfield out of four existing counties and creating a city and county in order to improve service delivery. Pitkin and Weld counties are charter counties with home rule. The City and County of Denver and the City and County of Broomfield consolidation

are organized under a charter pursuant to Article XX of the state constitution. Pitkin and Weld are organized pursuant to Article XIV of the Colorado constitution, which allows voters of a county to adopt a home rule charter establishing the organization and structure of county government. Home rule counties are required to provide all state-mandated programs, services, and facilities and may provide permissible programs, services, and functions as authorized by state law. In reality, Colorado's home rule counties enjoy only a few more prerogatives than statutory counties.

All counties in Colorado have the authority to appoint county administrators to enhance administrative capabilities. Only eight counties (Arapahoe, Bolder, Dolores, Moffat, Pueblo, Sedgwick, Washington, and Weld) do not have a county administrator or county manager. In addition, all counties elect the Assessor, Clerk and Recorder (one office), Coroner, Treasurer, Sheriff, and Surveyor. The County Attorney is an appointed position.



Form of County Government

- Board of County Commissioners with County Administrator
- Board of County Commissioners
- Charter City Council
- City-County Consolidation with Elected Executive
- City-County Consolidation with County Administrator
- Charter Board of County Commissioners

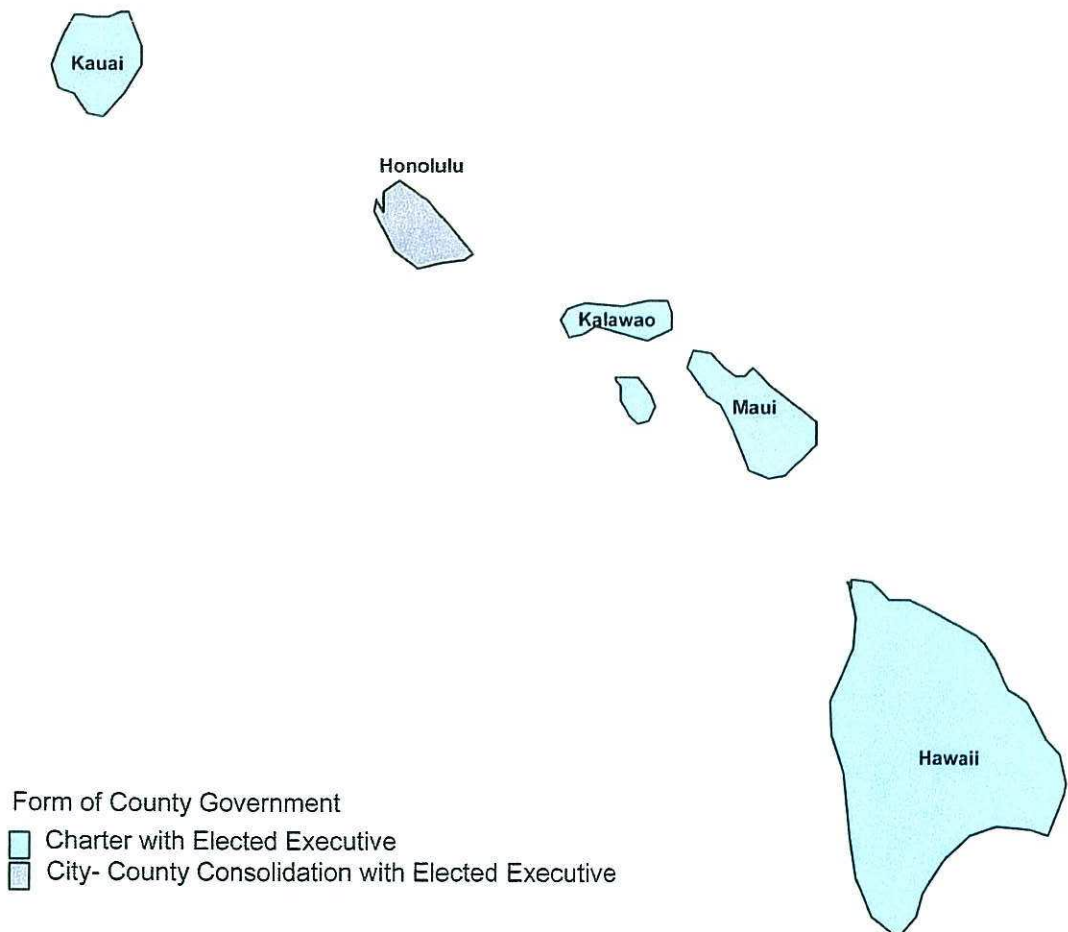
Hawaii

Hawaii's four counties derive their powers from the state Constitution. It establishes the creation and powers of counties and provides for home rule charters. Article VIII, Section 2, of the Hawaii constitution states that each county shall have the power to frame and adopt a charter for its own self-government within such limits and under such procedures as may be provided by general law. These procedures do not require the approval of a charter by a legislative body. All county powers shall be used to serve and advance the general welfare, health, happiness, safety, and aspirations of its inhabitants.

Hawaii county government is based on the Charter form. Under this form of government, the legislative powers of counties are vested in councils, while the executive branch powers are vested in a mayor. Three of Hawaii's counties (Hawaii, Honolulu, and Maui) utilize a nine-member council, while Kauai has a seven-member council. Although Hawaii's constitution permits city-county consolidations, the City and County of Honolulu is the only consolidation.

A fifth county, Kalawao, does not have fully functional county status. It exists under a special status and is administratively tied to the County of Maui.

Since Hawaii's counties have individual charters, the elected and appointed positions vary by county.



Idaho

Counties derive their powers from the Idaho constitution. The constitution establishes the legal framework for county government, describes the powers of county officials and their terms in office, enumerates the functions that counties perform, places limitations on county indebtedness, and contains detailed provisions on county boundaries. County government is based on the Commission form with a three-member board of county commissioners acting as the governing body of the county. These commissioners are elected at large while also meeting district residency requirements.

In 1994, the Idaho Constitution was amended to allow optional forms of county government. In 1996, the Idaho Legislature amended the Idaho code to implement

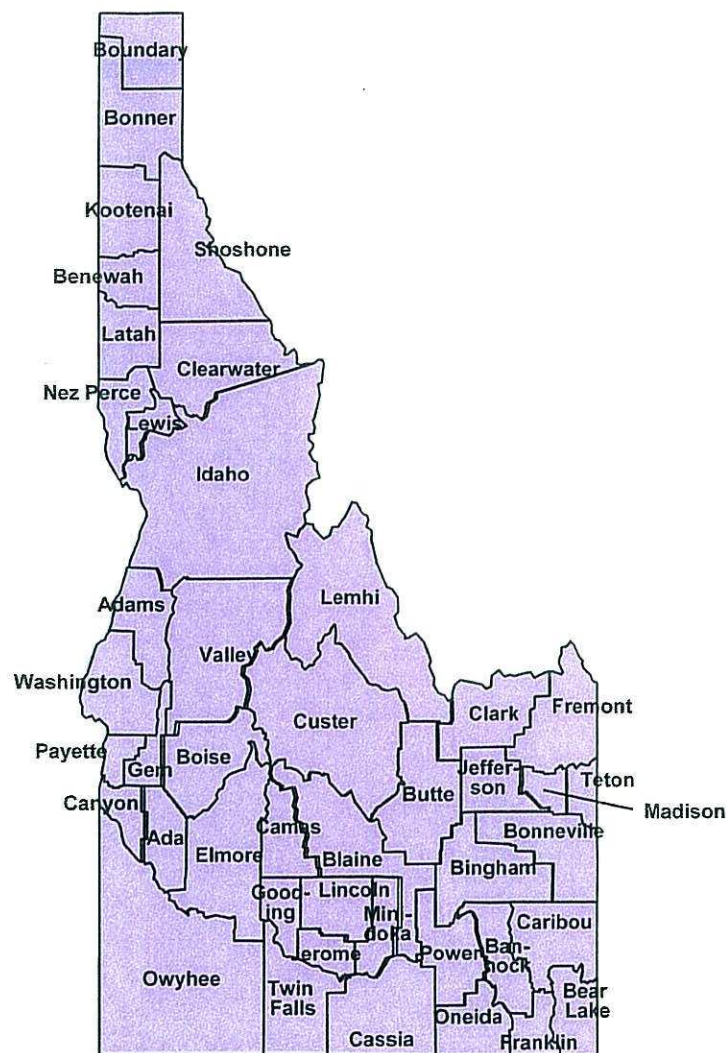
the amendments. Upon review by a study commission and approval by the voters of a county, a county may adopt an elected executive/commission form or a manager/commission form, appoint row officers, increase the commission to five or seven members, or adopt certain combinations of these options. Three elections have been held, but no county has adopted an optional form.

The board of county commissioners has power to adopt a budget, levy county taxes, enact ordinances, and oversee county administration. In addition to being the legislative body of the county, state law designates the county commissioners as the chief executive authority within the county government. The commis-

sioners are granted not only those specific executive powers stipulated in law, but also implied powers necessary for governing. Idaho counties serve as a unit of the state government in administering elections, enforcing state laws, and performing many state-mandated functions. They also act as a unit of local government in meeting the needs of its own citizens by providing the standard services ranging from public works to welfare.

Idaho does not have a county home rule provision in its constitution. Although a provision relating to consolidation of counties was added to the state constitution in 1932, it requires a two-thirds majority vote in both counties. No counties have chosen to merge to date.

The Constitution also stimulates that the Assessor, Clerk of the Court, Coroner, Prosecuting Attorney, Sheriff, and Treasurer must be elected positions.



Form of County Government
 ■ Board of County Commissioners

Montana

Montana's counties derive their powers from the state constitution and the Montana statutes, which establish the legal framework for county governments and list the powers and duties of the county governing bodies. The 1972 state constitution authorizes local governments to adopt general government powers or self-government powers.

Counties with general government powers possess only those powers granted by the legislature and traditionally utilize the commission form of government with a three-member board of county commissioners serving as the governing body. The commission members are elected at large, from districts, or a combination thereof. Statutes provide the board with the power to supervise county officers, make and enforce laws to preserve order, and transact business. All legislative and executive/administrative powers and duties belong to the board of commissioners.

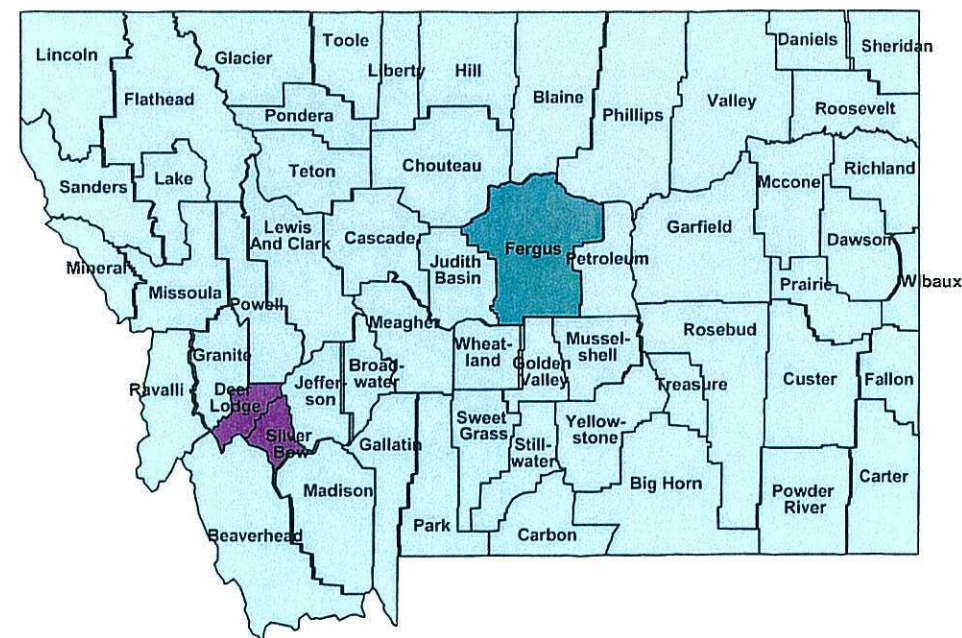
Charter self-government powers in Montana are granted by Article XI of the state constitution and Title 7 of the Montana Code. Counties may adopt self government though majority vote of county residents. These powers allow counties to perform the same services that general law counties perform, but there are no limitations on how services are to be performed unless the

law specifically provides exceptions. Generally, charter provisions establishing executive and legislative structure and organization are more flexible than statutory provisions. Only Fergus County has adopted a charter.

Article XI of the Montana constitution provides for other optional forms of government. These alternate forms of county government, authorized by the legislature, are as follows: Commission, Charter, Commission-Executive, Commission-Manager, and Commission-Chairman. The Commission-Executive form, unused to date, consists of an elected commission with one executive elected at large. The Commission-Manager form is similar, but the county manager is appointed by the commission to serve as the county chief administrative officer. Petroleum County uses the Commission-Manager form. The Commission-Chairman form, also unused to date, is an additional variation consisting of an elected commission and a commission chairman elected from the body's own members. The chair serves a dual role with legislative and executive powers. Any of these forms may be adopted through a majority vote of county residents.

Montana also provides for city-county consolidation by petition. Anaconda-Deer Lodge and Butte-Silver Bow have both chosen this option.

Most counties elect the following positions: Clerk and Recorder, Clerk of the Court, Coroner, Prosecuting Attorney, Public Administrator, Sheriff, and Treasurer. In certain counties, these positions may be combined or appointed.



Form of County Government

- Commission
- City-County Consolidation with Elected Executive
- Charter - Commission

Nevada

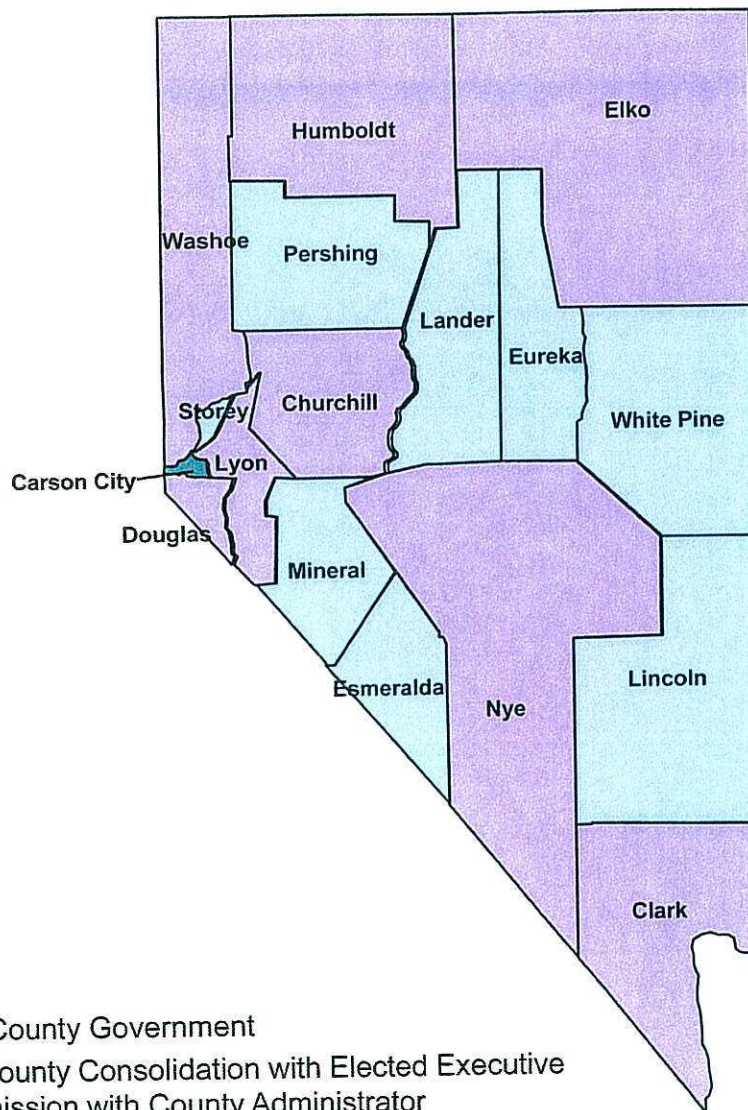
Counties derive their powers from three principal sources: the Nevada constitution, the Nevada Revised Statutes, and case law developed by Nevada and federal courts. Article IV of the Nevada constitution lists the major provisions concerning county government and its organization.

Nevada counties utilize the Commission form of government. A three-, five- or seven-member board of commissioners, elected at large or from single-member districts, serves as the executive and policy-making body of the county. A county and its board of commissioners only possess such powers and authority granted by statute and do not have home rule provisions.

To assist in the operation of county services, the county commissioners of all counties are authorized to appoint a county manager who serves at the pleasure of the board. Currently, eight Nevada counties (Churchill, Clark, Douglas, Elko, Humboldt, Lyon, Nye, and Washoe) employ a county manager.

Other county offices elected in all counties include the Assessor, County Clerk, District Attorney, Sheriff, and Treasurer. Most counties also elect a Recorder and Public Administrator, but in some counties these duties are carried out by the previously mentioned offices. Some counties also appoint the Auditor, Comptroller, Engineer, Public Defender and Surveyor.

Carson City-Ormsby County is the only city-county consolidation in Nevada. Approved in 1969 by legislative enactment, this consolidation utilizes a board of supervisors, an elected mayor, and an appointed county manager. It is one of three consolidated areas outside Virginia to be considered an Independent City by the U.S. Census Bureau.



Form of County Government

- City-County Consolidation with Elected Executive
- Commission with County Administrator
- Commission

New Mexico

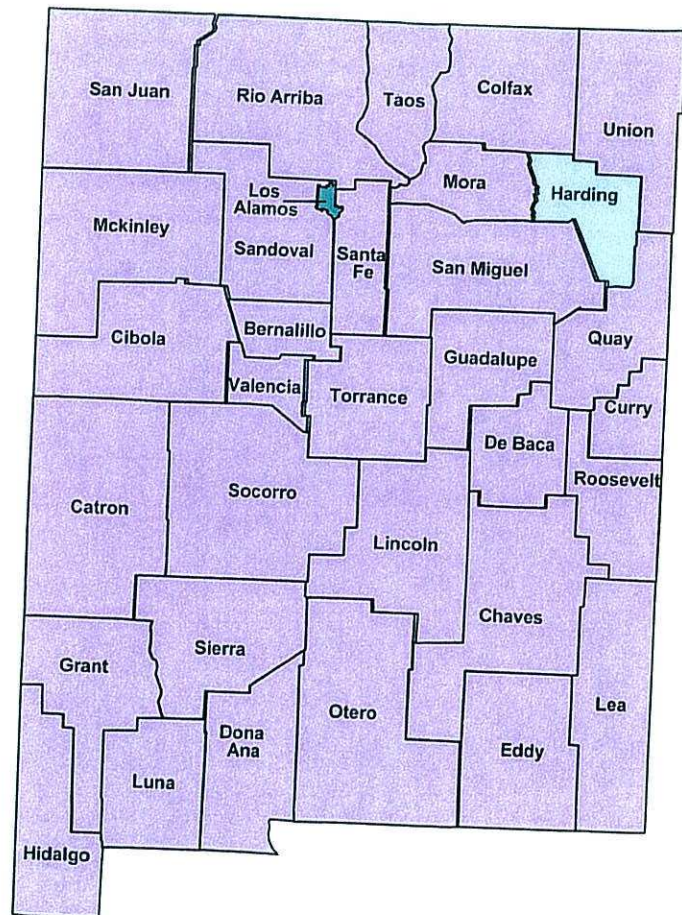
New Mexico's counties derive their powers from the state constitution and statutes. These establish the legal framework for county government and list the powers and duties of the county governing bodies.

All counties except Los Alamos utilize the Commission form of government, which consists of a three- or five-member county commissions elected at large from residency districts. The county structure also includes the elected row offices of sheriff, treasurer, assessor, clerk, and probate judge. Currently, all 33 counties, except Harding County, have an appointed county manager serving as the chief administrative officer of the county. Counties with populations over 13,000 are required to divide the board of county commissioners into districts and elect each commissioner from a district. Counties with less than 13,000 may use districts, but are not required to do so. Each county also elects the Assessor, County Clerk, Probate Judge, Sheriff, and Treasurer for four year terms.

Article X, Section 5 of the New Mexico constitution provides that any county less than 144 square miles in area and having a population of 10,000 or more may become an Incorporated County. As the only Incorporated County in the state, Los

Alamos possesses a home rule charter that provides for the form and organization of the county government. The charter also designates the officers who shall be elected and the legal responsibilities of those officers and county employees. The governing body of Los Alamos is a seven-member council, elected at large, with a strong appointed county administrator. An Incorporated County may exercise all powers and shall be subject to all limitations granted to municipalities by Article 9, Section 12 of the state Constitution and by statute.

Constitutional provisions also exist for city-county consolidations, but none has been created. A majority vote of the entire county as well as a majority vote of only those outside of the city is required for such a consolidation.



Form of County Government

- Board of County Commissioners with County Administrator
- Board of County Commissioners
- Charter - Incorporated County

Oregon

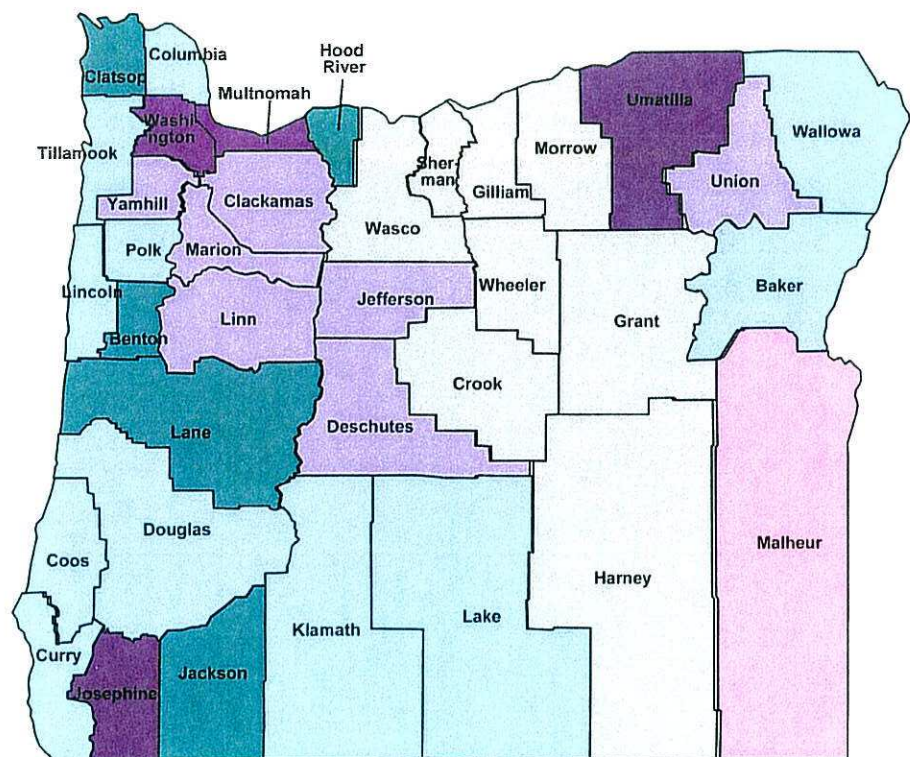
Oregon's counties derive their powers from the state constitution and statutes, which establish the legal framework for county government and list the powers and duties of the governing bodies. Oregon offers two basic forms of government to its 36 counties, General Law or optional Home Rule Charter status.

Of the 27 General Law counties in Oregon, 18 utilize a board of commissioners as the county's governing body and 9 employ the county court system. Both forms allow election of the governing body on an at large basis. The County Court system consists of a county judge and two commissioners. In addition to juvenile court or probate duties, the county judge has full-time administrative responsibility over county business. The commissioners of the court function on a part-time basis and serve as the governing body. All of the General Law counties may also appoint a county administrator. Clackamas, Deschutes, Jefferson, Linn, Marion, Union and Yamhill counties have an appointed administrator, and use boards of commissioners as the county governing bodies. Additional elected positions include the Assessor, County Clerk, District Attorney, Sheriff, Surveyor, and Treasurer.

Article VI, Section 10 of the state constitution permits county voters to adopt, amend, or repeal a county charter. This section also permits a general grant of powers in the charter to the county's governing body. Charter counties elect their governing bodies from single-member districts, at large, or a combination thereof. Nine counties currently operate under a charter: Benton County, Clatsop County, Hood River County, Jackson County, Josephine County, Lane County, Multnomah County, Umatilla County, and Washington County. All of the Charter counties have a board of commissioners; five counties utilize five-member boards and three counties utilize three-member boards. Additionally, five charter

counties appoint an administrative officer/administrator, who appoints most of the other department heads. These counties are Benton, Clatsop, Hood River, Jackson, and Lane. Multnomah County and Washington County have a "strong" chair, elected countywide, who holds administrative responsibility, including appointment and removal of department heads, subject to the board's approval. In addition, Washington County has an appointed administrator to assist the chair.

Oregon's counties provide a great variety of public services and facilities. State law mandates some county functions, while others are permissive. Counties are required to conduct tax appraisals, assessments and collections, and provide road maintenance, law enforcement, and public health services, among others. The list of permissive functions for counties is long and includes management of natural resources, fire protection, and public housing.



Form of County Government

- Commission
- Charter - Commission with County Administrator
- Commission with County Administrator
- Court
- Charter - Commission
- Court with County Administrator
- Charter - Commission with Elected Executive

Utah

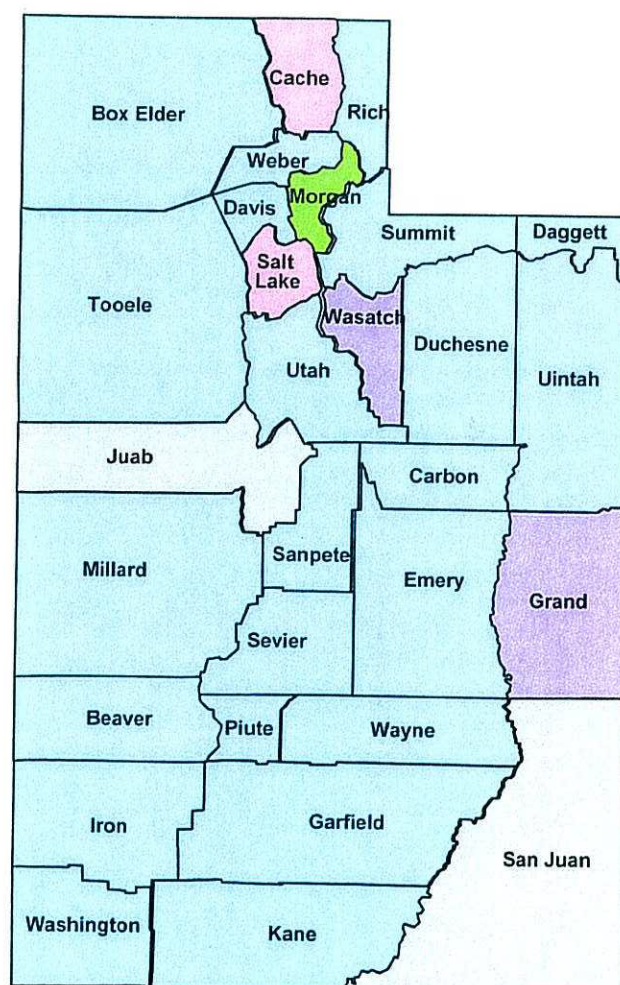
The counties derive their powers from the state constitution and the Utah code. These establish the legal framework for county government and list the powers and duties of the governing bodies. In addition to the Commission form, Utah offers its 29 counties five other structural formats: Expanded County Commission form, Executive and Chief Administrative Officer-Council form, County Executive-Council form, Council-Manager form, and Council-County Administrative Officer form.

The Commission form, used by all counties except Cache, Grand, Morgan, Salt Lake, and Wasatch counties, utilizes a three-member board of commissioners as the governing body elected by single member districts, at-large, or a combination thereof. The commission serves as both the executive and legislative body of the county. Expanded County Commission form has a commission made up of either five or seven members. It is both the county legislative body and county executive body. Grand and Morgan counties utilize this form. The County Executive and Chief Administrative Officer-Council forms of government allow an elected county council, an elected county executive, and an appointed county chief administrative officer. The county executive is the chief executive officer of the county. The county council has responsibility for legislative functions, while the county executive is in charge of executive functions. The administrative officer is appointed by and reports to the county executive.

In the County Executive and Council forms, there is an elected county council and an elected county executive. The council is responsible for legislative functions, and the executive is responsible for executive functions. In the Council-Manager form, there is an elected council, and an appointed manager. The county manager is the administrative

head of the county, and is responsible for executive functions. The manager does not have veto power. The council is responsible for legislative functions. In the Council-County Administrative Officer Form, there is an elected council and an appointed administrative officer. The county council is the legislative body and the administrative officer performs the functions of the county executive except as otherwise provided in the optional plan.

Counties also elect the Assessor, Auditor, Clerk, District Attorney, Recorder, Sheriff, Surveyor, and Treasurer.



Form of County Government

- Commission
- Council with Elected Executive
- Council with County Administrator
- Commission with County Administrator
- Council

Washington

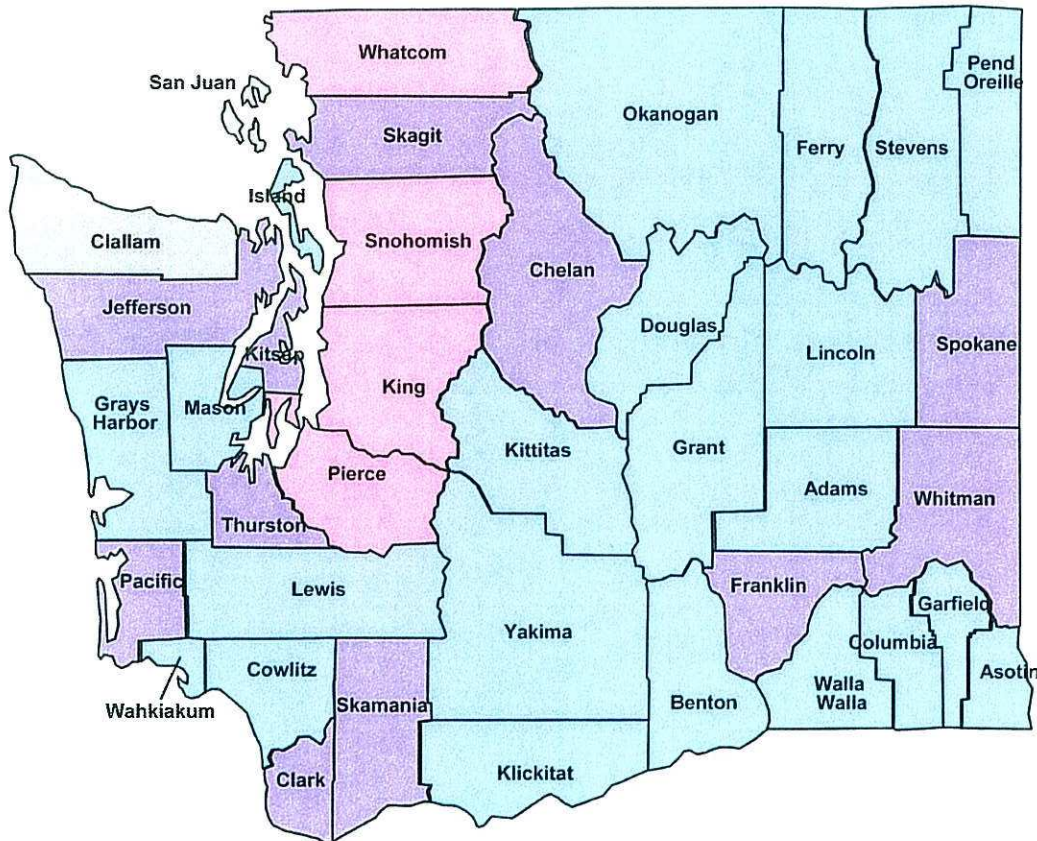
Washington's counties derive their powers from the state constitution. This establishes the legal framework for county government and lists the duties and powers of the governing bodies. Washington affords its 39 counties two structural options, Commission or Home Rule Charter status.

The 33 Commission counties utilize governing structures consisting of a three-member board of county commissioners elected from single-member districts and functioning as both the legislative and executive body in each county. Eight non-charter counties have appointed county administrators to aid the commission in daily administration: Clark, Cowlitz, Franklin Kitsap, Pacific, Skagit, Spokane, and Thurston.





Presently, there are six Home Rule Charter counties: Clallam, King, Pierce, San Juan, Snohomish, and Whatcom. All home rule counties except Clallam and

San Juan utilize a council with an elected executive as the governing body of each county. Clallam and San Juan have chosen to retain the Commission form and an appointed county administrator. Additionally, any county that frames a charter may provide for the formation of combined city and county municipal corporations to be known as a city-county. To date, no counties have exercised this option.

Washington's counties serve as the administrative arm of the state and provide a diverse range of services such as public safety, judicial services, land use planning, road maintenance, and public health. Other elected county officials include the Assessor, Auditor, Clerk, Coroner, Prosecuting Attorney, Sheriff, and Treasurer. In counties with a population less than 40,000, the duties of the Coroner fall to the Prosecuting Attorney's office.



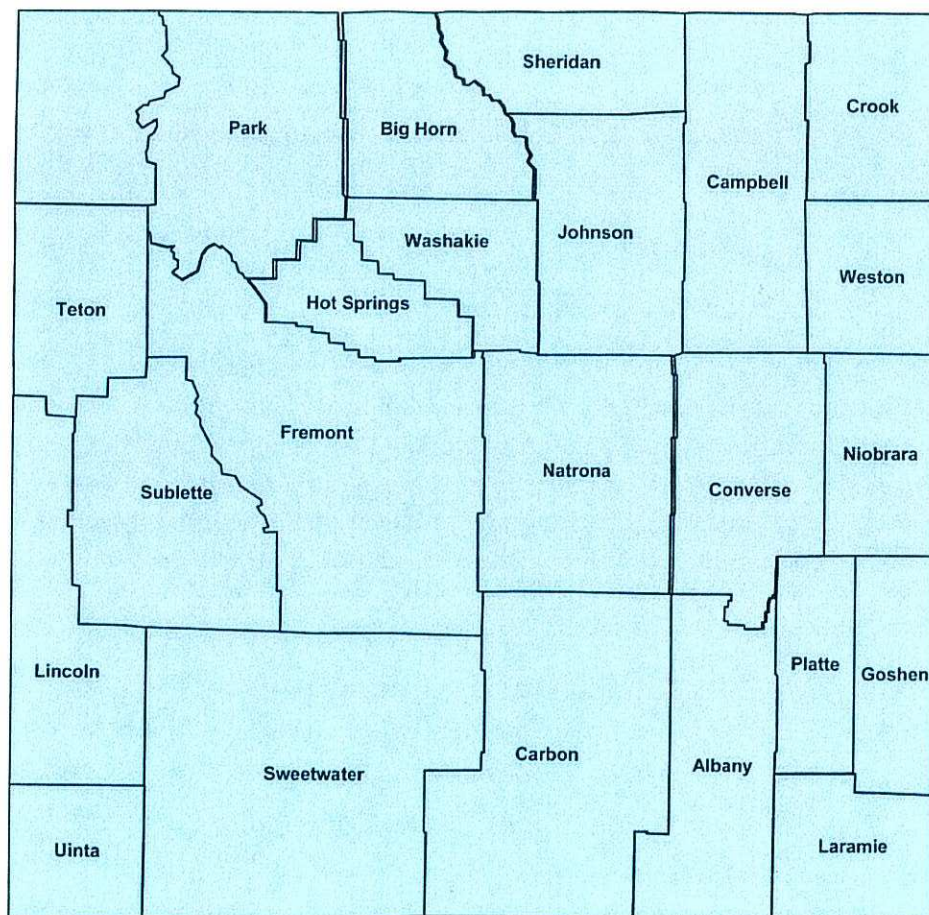
Form of County Government

-  Commission
-  Commission with County Administrator
-  Charter - Commission with County Administrator
-  Charter - Commission with Elected Executive

Wyoming

Wyoming's counties derive their powers from the state constitution and statutes. These provide for the creation of counties and their officers, while empowering the legislature to direct county goals. The traditional Commission form governs all 23 counties in Wyoming, which is the only form permitted by the legislature. A three- or five-member board of county commissioners is elected at large to govern each county. Counties with a five-member board may utilize districts, but no county currently uses the district method. The board's law-making powers are generally limited to enacting those types of ordinances and regulations permitted by state law. The counties do not have available to them charter authority, home rule powers, or any other county alternative. Additional elected county officials include the Assessor, Coroner, County Attorney, County Clerk, Sheriff, Surveyor, and Treasurer.

Wyoming counties serve as an arm of the state by providing the following required services: the assessment of property, the collection of property taxes, the recording of deeds and other property documents, maintenance of rural roads, law enforcement, and the administration of electoral and judicial functions. Some additional services provided by county governments, but not required by state law, are fire protection, water, sewage disposal, parks and recreation programs, airports, libraries, hospitals and other services. Recently, there has been a tremendous growth of newer services performed by the county, not as an administrative arm of the state, but as a more independent branch of local government, including senior centers.



Form of County Government

Commission

APPENDIX E

Carson City Charter, 1.080 through 1.100 and *Sparks City Charter*, 1.140 through 1.160

CARSON CITY CHARTER
CHAPTER 213, STATUTES OF NEVADA 1969

Sec. 1.080 Charter Committee: Nomination; appointment; terms; qualifications; compensation.

1. The candidates for membership on the Charter Committee must be nominated as follows:

- (a) Each Supervisor shall nominate at least one candidate; and
- (b) Each member of the Senate and Assembly delegation representing the residents of the City shall nominate at least one candidate.

2. The Board shall:

(a) Determine the appropriate number of members of the Charter Committee from the candidates nominated; and

(b) Appoint the members of the Charter Committee.

3. Each member of the Charter Committee must:

- (a) Be a registered voter in Carson City;
- (b) Serve a term concurrent to the term of the public officer by whom he was nominated;
- (c) Reside in Carson City during his term of office; and
- (d) Serve without compensation.

(Added—Ch. 341, [Stats. 1999 p. 1406](#))

Sec. 1.090 Charter Committee: Officers; meetings; duties. The Charter Committee shall:

1. Elect a Chairman and Vice Chairman from among its members who each serve for a term of 2 years;

2. Meet at least once every 2 years before the beginning of each regular session of the Legislature and when requested by the Board or the Chairman of the Committee;

3. Meet jointly with the Board on a date to be set after the final biennial meeting of the Committee is conducted pursuant to subsection 2 and before the beginning of the next regular session of the Legislature to advise the Board with regard to the recommendations of the Committee concerning necessary amendments to this Charter; and

4. Assist the Board in the timely preparation of such amendments for presentation to the Legislature on behalf of the City.

(Added—Ch. 341, [Stats. 1999 p. 1406](#); A—Ch. 68, [Stats. 2003 p. 451](#))

Sec. 1.100 Charter Committee: Removal; vacancies.

1. A member of the Charter Committee may be removed by the Board for:

- (a) Missing three consecutive regular meetings; or
- (b) Other good cause.

2. The Board shall fill any vacancy that occurs on the Charter Committee for the unexpired term.

(Added—Ch. 341, [Stats. 1999 p. 1406](#))

SPARKS CITY CHARTER
CHAPTER 470, STATUTES OF NEVADA 1975

Sec. 1.140 Charter Committee: Appointment; terms; qualifications; compensation.

1. The Charter Committee must be appointed as follows:
 - (a) One by each member of the Council.
 - (b) One by the Mayor.
 - (c) One by each member of the Senate and Assembly delegation representing the residents of the City.
2. Each member shall:
 - (a) Serve during the term of the person by whom he was appointed;
 - (b) Be a registered voter of the City; and
 - (c) Reside in the City during his term of office.
3. Members of the Committee are entitled to receive compensation, in an amount set by ordinance of the City Council, for each full meeting of the Charter Committee they attend.
(Ch. 470, Stats. 1975 p. 728; A—Ch. 450, Stats. 1985 p. 1311)

Sec. 1.150 Charter Committee: Meetings; duties. The Charter Committee shall:

1. Meet at least once every 2 years immediately before the beginning of each regular session of the Legislature and when requested by the City Council or the Chairman of the Committee.
2. Prepare recommendations to be presented to the Legislature on behalf of the City concerning all necessary amendments to the City Charter.
3. Recommend to the City Council the salary to be paid all elective officers for the ensuing term.
4. Perform all functions and do all things necessary to accomplish the purposes for which it is established, including but not limited to holding meetings and public hearings, and obtaining assistance from City officers.
(Ch. 470, Stats. 1975 p. 728; A—Ch. 450, Stats. 1985 p. 1311)

Sec. 1.160 Charter Committee members: Removal; grounds.

1. Any member may be removed by a majority of the remaining members of the Committee for cause, including the failure or refusal to perform the duties of the office, the absence from three successive regular meetings, or ceasing to meet any qualification for appointment to the Committee.
2. In case of removal, a replacement must be appointed by the officer who appointed the removed member.
(Ch. 470, Stats. 1975 p. 728; A—Ch. 450, Stats. 1985 p. 1312; Ch. 350, Stats. 1987 p. 790)

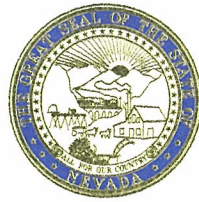
APPENDIX F

Committee Letters Approved During the Work Session

JOHN J. LEE

SENATOR

Clark No. 1



COMMITTEES:

Chair

Government Affairs

Member

Energy, Infrastructure and Transportation

Legislative Operations and Elections

State of Nevada Senate

Seventy-fifth Session

October 1, 2010

DISTRICT OFFICE:

3216 Villa Pisani Court
North Las Vegas, Nevada 89031-7267

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Fax No.: (702) 647-0951

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Carson City, Nevada 89701-4747

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(775) 684-1401

Fax No.: (775) 684-6522
www.leg.state.nv.us

Dear Local Governing Board Official:

As you may know, the Legislative Commission's Committee to Study Powers Delegated to Local Governments (Senate Bill 264, Chapter 462, *Statutes of Nevada 2009*) recently completed its business for the 2009-2010 Legislative Interim. The Committee was charged with examining the structure, formation, functions, and powers of local governments in the State of Nevada and discussed a wide array of topics, ranging from city charters and local elected official salaries to "Home Rule" powers and parity between counties and cities. Participation and input by representatives of Nevada's counties and cities was greatly appreciated. Moreover, I have been fortunate to meet many local government leaders during my recent travels throughout Nevada and am impressed with their tremendous dedication to the local community.

Throughout the legislative interim, an underlying theme observed by the Committee was the need for greater public involvement at all levels of government. As policymakers, we all agree that the public should be afforded ample opportunity to participate in public hearings and share their suggestions and concerns with elected representatives. During its final meeting and work session, the Committee voted to send this letter urging each county and city in Nevada and their respective governing boards and other local policy boards to hold more evening meetings to allow greater participation by the public and elected lawmakers. The Nevada Association of Counties and the Nevada League of Cities and Municipalities have graciously agreed to forward this letter to you through their network of county and city contacts.

The Committee understands that while many local governing boards already hold evening meetings and actively engage public discourse, it is nonetheless critical to remind all elected officials that an open and accessible government is an important component of our democracy. As chairman of several legislative committees both during the legislative session and during the interim periods, I share in your commitment for greater public involvement in the policymaking process.

Local Governing Board Official

Page 2

October 1, 2010

Thank you for your time and kind consideration. My fellow legislators and I appreciate the efforts made by local policymakers like you to make our jobs at the Legislature easier and more successful. As always, please feel free to contact me if I may be of any assistance to you.

Sincerely,

A handwritten signature in black ink that reads "John J. Lee". The signature is written in a cursive, flowing style.

Senator John J. Lee
Chairman, Legislative Commission's
Committee to Study Powers Delegated
to Local Governments

JJL/jp:L03-W100978

cc: J. David Fraser, Executive Director, Nevada League of Cities and Municipalities
Jeff Fontaine, Executive Director, Nevada Association of Counties
Wes Henderson, Government Affairs Coordinator, Nevada Association of Counties

JOHN J. LEE

SENATOR

Clark No. 1

COMMITTEES:

Chair

Government Affairs

Vice Chair

Select Committee on Economic
Growth and Employment

Member

Natural Resources
Transportation



State of Nevada Senate

Seventy-Sixth Session

July 14, 2010

DISTRICT OFFICE:

3216 Villa Pisani Court
North Las Vegas, Nevada 89031-7267
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Email: jlee@sen.state.nv.us
www.leg.state.nv.us

David Humke, Chair
Interim Technical Advisory Committee
on Intergovernmental Relations
P. O. Box 11130
Reno, NV 89520

Debra March, Vice Chair
Interim Technical Advisory Committee
on Intergovernmental Relations
2945 Formia Drive
Henderson, NV 89052-4061

Dear Chair Humke and Vice Chair March:

As you know, the Legislative Commission's Committee to Study Powers Delegated to Local Governments (Senate Bill 264, Chapter 462, *Statutes of Nevada 2009*) recently completed its business for the 2009-2010 Legislative Interim. The Committee was charged with examining the structure, formation, functions, and powers of local governments in the State of Nevada and discussed a wide array of topics, ranging from city charters and local elected official salaries to "Home Rule" powers and parity between counties and cities. Your valuable participation and that of the members of the Interim Technical Advisory Committee on Intergovernmental Relations (ACIR) was greatly appreciated, and your input helped shape a number of recommendations that were approved during the interim study committee's final meeting and work session.

During this final meeting, the Committee heard from Mr. Jordan Ross, a Laughlin, Nevada, resident, who presented the attached letter and raised a number of issues relating to local government powers and functions. Specifically, the letter requests that the Legislature consider: (a) removing provisions in Chapter 269 of *Nevada Revised Statutes* relating to the appointment of members of Town Advisory Boards and instead provide for their election; (b) authorizing counties to elect a "county mayor" to serve as the presiding officer of the Board of County Commissioners and "be the public face of the county"; and (c) changing the name of Town Boards to Town Councils in an effort to better distinguish Town Boards from Town Advisory Boards.

David Humke and Debra March

Page 2

July 14, 2010

The Committee was very appreciative and intrigued by the issues Mr. Ross raised. Unfortunately, given the time constraints, the Committee was not able to adequately and fully examine his requests for legislative changes. Therefore, the Committee to Study Powers Delegated to Local Governments voted to send you, as Chair and Vice Chair of the ACIR, this letter asking you to invite Mr. Ross to an upcoming meeting of the ACIR to consider his requests. It is our hope that the ACIR can thoroughly vet these issues to determine if legislative action is an appropriate response to Mr. Ross' concerns.

The Committee members and I look forward to hearing from you regarding your examination of these issues. In the meantime, please feel free to contact the Committee Policy Analyst for the Committee, Michael J. Stewart, or me if we may be of any assistance to you.

Sincerely,

A handwritten signature in black ink, reading "John J. Lee". The signature is fluid and cursive, with the first name "John" and last name "Lee" clearly legible.

Senator John J. Lee
Chairman, Legislative Commission's
Committee to Study Powers Delegated
to Local Governments

JJL/jp:L02-W100980

Enc.

cc: Jordan Ross, The Laughlin Herald

Members, Board of Commissioners, Clark County

Members, Interim Technical Advisory Committee on Intergovernmental Relations

J. David Fraser, Executive Director, Nevada League of Cities and Municipalities

Jeff Fontaine, Executive Director, Nevada Association of Counties

Wes Henderson, Government Affairs Coordinator, Nevada Association of Counties

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU

LEGISLATIVE BUILDING
401 S. CARSON STREET
CARSON CITY, NEVADA 89701-4747
Fax No.: (775) 684-6600



LEGISLATIVE COMMISSION (775) 684-6800
JOHN OCEGUERA, *Assemblyman, Chairman*
Lorne J. Malkiewicz, *Director, Secretary*

INTERIM FINANCE COMMITTEE (775) 684-6821
BERNICE MATHEWS, *Senator, Co-Chair*
STEVEN HORSFORD, *Senator, Co-Chair*
Mark Krmpotic, *Fiscal Analyst*
Rick Combs, *Fiscal Analyst*

LORNE J. MALKIEWICH, *Director*
(775) 684-6800

BRENDA J. ERDOES, *Legislative Counsel* (775) 684-6830
PAUL V. TOWNSEND, *Legislative Auditor* (775) 684-6815
DONALD O. WILLIAMS, *Research Director* (775) 684-6825

October 1, 2010

Mayor Shari Buck
City of North Las Vegas
2200 Civic Center Drive
P. O. Box 4086
North Las Vegas, NV 89036-4086

Dear Mayor Buck:

As you may know, the Legislative Commission's Committee to Study Powers Delegated to Local Governments (Senate Bill 264, Chapter 462, *Statutes of Nevada 2009*) recently completed its business for the 2009-2010 Legislative Interim. The Committee was charged with examining the structure, formation, functions, and powers of local governments in the State of Nevada and discussed a wide array of topics, ranging from city charters and local elected official salaries to "Home Rule" powers and parity between counties and cities. Participation and input by representatives of Nevada's counties and cities was greatly appreciated.

During the course of the legislative interim, the Committee reviewed the process by which city charters are amended. As you know, charter changes are often made through legislation considered and approved by the Nevada Legislature. Charter amendments may also be made through a citizen petition process as set forth in *Nevada Revised Statutes* 266.010. Committee members heard testimony indicating that some cities utilize a charter committee or other public body to thoroughly vet proposed charter amendments and seek public input. As legislators, we greatly appreciate knowing that legislation proposing city charter amendments has been agreed to by the mayor and city council. Moreover, during testimony on such legislation, we often ask whether the proposed amendments have been presented during public hearings, included as part of public outreach activities, or vetted through a charter committee or a city charter review board.

Mayor Shari Buck

Page 2

October 1, 2010

As you know, the City of Sparks utilizes the Sparks Charter Committee and Carson City has a Charter Review Committee (both of which are set forth in their respective charters) to discuss and evaluate necessary changes to the governing charter. The Committee believes this may be a good model for other cities to consider. Therefore, at its final meeting and work session, the Committee voted to send you this letter encouraging your city to utilize, if you have do not currently do so, a formalized public process for seeking input and evaluation on possible charter changes (perhaps public hearings or outreach activities) or consider the creation of a charter committee designed to review potential charter amendments.

Thank you for your time and kind consideration. The Committee appreciates your commitment to your city and welcomes your involvement in local government matters that will come up during the upcoming legislative session. As always, please feel free to contact me if I may be of any assistance to you.

Sincerely,

A handwritten signature in black ink that reads "John J. Lee". The signature is fluid and cursive, with the first and last names being more prominent than the middle initial.

Senator John J. Lee
Chairman, Legislative Commission's
Committee to Study Powers Delegated
to Local Governments

JJL/jp:L04-W100979

cc: Maryann I. Ustick, Acting City Manager, City of North Las Vegas
J. David Fraser, Executive Director, Nevada League of Cities and Municipalities

An identical letter regarding city charters was also sent to the following entities:

Mayor Roger Tobler
City of Boulder City
401 California Avenue
P. O. Box 61350
Boulder City, NV 89006-1350

Mayor Oscar Goodman
City of Las Vegas
400 Stewart Avenue
Las Vegas, NV 89101

Mayor Kevin J. Phillips
City of Caliente
P. O. Box 1006
Caliente, NV 89008

Mayor Bob Cashell
City of Reno
P. O. Box 1900
Reno, NV 89505

Mayor Cliff Eklund
City of Carlin
101 S. 8th Street
P. O. box 787
Carlin, NV 89822

Mayor Rusty A. Tybo
City of Wells
1279 Clover Avenue
P. O. Box 366
Wells, NV 89835-0366

Mayor Mike Franzoia
City of Elko
1751 College Avenue
Elko, NV 89801

Mayor Doug Homestead
City of Yerington
102 S. Main Street
Yerington, NV 89447

Mayor Andy Hafen
City of Henderson
240 Water Street
Henderson, NV 89015