

WORK SESSION DOCUMENT

Legislative Commission's Study to Develop Enabling Legislation For the Creation of Incorporated Towns Assembly Bill 381 (Chapter 538, *Statutes of Nevada 2001*)

April 26, 2002

The staff of the Study to Develop Enabling Legislation for the Creation of Incorporated Towns has prepared this "Work Session Document." The document contains a summary of recommendations that have been presented to the subcommittee in public hearings and in correspondence. Where applicable, a citation concerning the source of the recommendation is noted.

The document is designed as a working document to assist members of the subcommittee with making decisions during the work session. The recommendations listed in the document do not necessarily have the support or opposition of the subcommittee.

RECOMMENDED AMENDMENTS TO THE BILL DRAFT TO PROVIDE FOR THE INCORPORATION OF TOWNS IN NEVADA

Tab A is a bill draft, which was prepared by staff of the Legal Division, Legislative Counsel Bureau (LCB), in response to direction that was provided by members of the subcommittee and by members of an advisory committee to the subcommittee. The following recommendations concerning the bill draft were made at a meeting of the advisory committee and from additional written comments. Notations of page numbers that are listed beside the bill draft section numbers refer to the bill draft. To assist the members if there are questions concerning the statute that was used as a model to develop the bill draft, Tab G includes a document titled "Equivalence & Purpose of New Language Sections of Bill Draft on Incorporated Towns," which was prepared by staff of the Legal Division, LCB. This tab includes a copy of the referenced statutes in addition to other statutes that are recommended for amendment in the Work Session Document.

General Amendments

1. Amend the bill draft to prohibit towns from incorporating in Clark and Washoe Counties.

NOTE: Advisory committee members at the April 15, 2002, advisory committee meeting discussed a need to establish separate standards for towns to incorporate in Clark and Washoe Counties, but no specific recommendations were discussed to accomplish this end. Members noted that the bill might be bogged down with too many exemptions or exclusions if towns were allowed to incorporate in these counties.

2. Amend the bill draft to require that the incorporation committee pay for the costs of incorporating the town. Once a town is incorporated, all of costs associated with the incorporation should become a charge to the town. (**Source:** "Nevada Association of Counties [NACO] Comments on Incorporated Town BDR 21 Draft," provided by Jim Spinello. See Tab B.)

Section 5 (Pages 3 to 4)

3. Amend Section 5 of the bill draft to specify that a town may not incorporate unless it has a population of 10,000 or more. (**Source:** NACO Comments.)
4. Amend subsection 4 of Section 5 of the bill draft to delete the reference to "7 miles" and replace it with "15 miles." (**Source:** NACO comments. See also the written comments of Brian Chally, Chief Civil Deputy, Office of the District Attorney, Douglas County, at Tab C.)
5. Amend Section 5 by adding language that would prohibit an incorporated town from forming within urban

growth zone boundaries as defined by NRS 463.3094, which relates to a disposal area of the Bureau of Land Management, United States Department of the Interior. **(Source:** NACO comments.)

6. Delete subsection 8 of Section 5. **(Source:** NACO comments.)

NOTE: This section was modeled after *Nevada Revised Statutes* 266.017. However, the language in subsection 8 is not included in this statute.

7. In subsection 3 of Section 5, clarify the statement “. . . be susceptible to the provision of uniform public services . . .” **(Source:** NACO comments.)
8. Amend Section 5 by adding language that defines the boundaries of Clark County’s proposed Ivanpah Airport and exempts this area from the process of incorporation. **(Source:** NACO comments.)
9. Amend subsection 7 of Section 5 to accommodate overlapping boundaries of general improvement districts. **(Source:** Written comments of Claudette Springmeyer, Comptroller/Administrative Services Director, Douglas County, on April 15, 2002, at Tab D. See also the written comments of Brian Chally at Tab C.)
10. Amend subsection 7 of Section 5 to allow portions of an unincorporated town to be incorporated as a town. **(Source:** Tim Hafen at the April 15, 2002, meeting of the advisory committee.)

Section 6 (Page 4)

11. Amend Section 6 to require the county clerk to cause a notice to incorporate to be placed on the agenda of the next regularly scheduled meeting of the board of county commissioners in accordance with Nevada’s Open Meeting Law as an informational item. **(Source:** NACO comments.)

Section 7 (Page 5)

12. Amend subsection 1 of Section 7 by deleting “or arranged for.” **(Source:** Written comments of Brian Chally.)
13. Amend subsection 1 of Section 7 to add the following lists of services from which a town may choose to provide or arrange for the provision of:
 - a. Subdivision regulation;
 - b. Construction, maintenance, and repair of storm drainage facilities;
 - c. Building code compliance;
 - d. Business license and regulation;
 - e. Utility regulation; and
 - f. Animal control.**(Source:** NACO comments.)
14. Amend Section 7 to require an incorporated town to provide at least eight services from the designated list, including those services suggested in Item 13. **(Source:** NACO comments.)
15. Amend Section 7 to require an incorporated town, if it chooses to provide zoning and land use planning, to also assume the following minimal services:

- a. Subdivision regulation;
- b. Construction, maintenance, and repair of roads;
- c. Construction, maintenance, and repair of storm drainage facilities;
- d. Sewer and water services;
- e. Building code compliance;
- f. Police;
- g. Fire;
- h. Utility regulation; and
- i. Parks and recreation.

(Source: NACO comments.)

- 16. Amend Section 7 to ensure that if a town has control over zoning and land use planning, it must comply with the plans and ordinances set forth by the county. Further, the board of county commissioners must settle questions concerning the interpretation of the county's zoning and land use planning requirements. (Source: Written comments of Claudette Springmeyer on April 15, 2002, at Tab D.)
- 17. Amend Section 7 to require that all incorporated towns in each county provide the same set of services. (Source: NACO comments.)
- 18. Amend the bill to allow representation by a representative of an incorporated town on a county or regional planning commission if the town chooses not to provide planning related services. (Source: Robert Spellberg, District Manager, Gardnerville Ranchos general improvement district (GID), at the April 15, 2002, meeting of the advisory committee.)

Section 8 (Pages 5 to 7)

- 19. Amend the bill to allow a board of county commissioners to initiate the process to incorporate a general improvement district without having to go through a petition process. (Source: Written comments of Claudette Springmeyer in a March 22, 2002, memorandum at Tab D.)
- 20. Amend subsection 1(h) in Section 8 to require that the statement of plans to provide or arrange for services include a letter of intent to enter into the proposed agreement and require that an officer of the jurisdiction that has agreed to provide the service signs the letter. (Source: NACO comments.)
- 21. Amend Section 8 to require that an incorporated town include with its petition a detailed statement identifying how the services that it has chosen not to provide will be made available to the town and whether any other jurisdiction that would provide these services is in agreement to do so. (Source: NACO comments.)
- 22. Amend the bill draft to require that an interlocal agreement that is necessary to establish the provision of services to a town be executed before the incorporation is effective. (Source: NACO comments.)

Section 10 (Page 8)

- 23. Amend subsection 2 of Section 10 by deleting "15 percent of the qualified electors" and replacing it with "one-third of the qualified electors." Further, amend this subsection by deleting "5 percent of the assessed valuation" and replacing it with "25 percent of the assessed valuation." (Source: NACO comments. See also the written comment of Janet Murphy, Administrator, Tahoe-Douglas District, at Tab E.)

Section 12 (Page 9)

24. Amend subsection 2 of Section 12 by deleting “10 days” and replacing it with “30 days.” (Source: NACO comments.)

Section 13 (Pages 9 to 10)

25. Amend Section 13 to require that a board of county commissioners, rather than a county clerk, make a determination concerning whether a petition is sufficient and delete the last sentence in subsection 1. (Source: NACO comments.)
26. Amend Section 13 to add language noting that a finding of insufficiency may be appealed to district court. (Source: NACO comments.)

OR

Amend Section 13 to add language noting that a finding of insufficiency is final. (Source: NACO comments.)

Section 14 (Page 10)

27. Amend Section 14 to ensure that it complies with the amendment recommended for Section 13 concerning sufficiency of the petition for incorporation. (Source: NACO comments.)
28. Add language to Section 14 that requires the Committee on Local Government Finance to include an analysis of the impacts of the incorporation on the residents of the town and on the residents of adjacent and surrounding areas. (Source: NACO comments.)

Section 16 (Page 11)

29. Amend subsection 1 of Section 16 to require that the Department of Taxation, in addition to the requirements in this subsection, conduct an analysis of the effects of incorporation on the residents of adjacent and surrounding jurisdictions and upon any regional entities that would be affected by the incorporation of the town. (Source: NACO comments.)

Section 19 (Page 13)

30. Amend subsection 1 of Section 19 to delete “14 days” and replace it with “30 days.” (Source: NACO comments.)
31. Amend subsection 2 of Section 19 to delete “14 days nor later than 30 days” and replace it with “60 days nor later than 90 days.” (Source: NACO comments.)
32. Amend subsection 3 of Section 19 to require that the notice of the date, time, and place for the public hearing be in the form of display-type advertising and not small legal type. (Source: Carole Vilardo, Executive Director, Nevada Taxpayers Association, at the April 15, 2002, meeting of the advisory committee.)

Section 21 (Page 13 to 16)

33. No specific recommendations were made for this section, but Mr. Walt Kuver of Pahrump, Nevada, has expressed concerns, which are specified in Tab F.

Section 22 (Page 16 to 17)

34. Amend Section 22 to allow a board of county commissioners to stop a committee’s effort to incorporate a town if the board determines that the incorporation is not feasible. (Source: NACO comments.)

35. Amend subsection 3 of Section 22 to prohibit an election to incorporate a town during the months of August, September, October, and November of even-numbered years. (**Source:** NACO comments.)

Section 24 (Page 17 to 18)

36. Amend Section 24 to add a new paragraph requiring that an incorporation ballot include a statement by the board of county commissioners of its opinion concerning whether the incorporation is or is not advisable. The statement of advisability should include an explanation of the board's opinion. (**Source:** NACO comments.)

NOTE: This recommendation may not be necessary if Item 34 is adopted.

37. Amend subsection 2 of Section 24 by deleting “or arranged for.” (**Source:** Written comments of Brian Chally.)

Section 28 (Page 20)

38. Delete subsection 1 of Section 28. (**Source:** NACO comments.)
39. Amend subsection 2 of Section 28 to add language that specifies the following costs are chargeable to the incorporated town, whether the town is incorporated or not:
 - a. Expenses, including staff time, supplies, telephone calls, travel and per diem, and other undertakings that may be itemized of the Committee on Local Government Finance for the reports and analysis that are required;
 - b. Expenses, including staff time, supplies, telephone calls, travel and per diem, and other undertakings that may be itemized of the Department of Taxation for the reports and analysis that are required; and
 - c. Expenses, including staff time, supplies, telephone calls, travel and per diem, and other undertakings that may be itemized for the of the board of the county commissioners and the county government for the:
 - i. Reports and analysis that are required;
 - ii. Required public notices; and
 - iii. Costs of the incorporation election.

NOTE: These amendments were expanded upon by staff because of NACO's written comments, which are noted at Item 2 on Page 2 of the Work Session Document.

Section 30 (Page 21)

40. Amend the first paragraph of Section 30 by deleting “1 year” and replace it with “5 years.” (**Source:** Written comments of Brian Chally wherein he notes that the bar period “seems very short.” John Sherman, Finance Director, Washoe County, suggested the 5-year time period at the April 15, 2002, advisory committee meeting.)
41. Amend Section 30 by adding “whichever date is later” as it applies to subsections 1 through 4 and when another petition to incorporate may be circulated. (**Source:** Written comments of Brian Chally.)

Section 34

42. Delete subsection 2 of Section 34. (**Source:** Written comments of Walt Kuver.)

Section 36

43. Amend subsection 1 of Section 36 by deleting:

- a. On the last line of page 23, “fixed assets”;
- b. On the first line of page 24, “assets”;
- c. On the third line of page 24, “real property and its appurtenances”;
- d. On the fourth line of page 24, “assets”;
- e. On the fourth line of page 24, “real property”;
- f. On the seventh line of page 24, “assets”; and

replacing these terms with “real property and fixtures.”

(**Source:** Written comments of Brian Chally.)

44. Although he did not make a specific recommendation concerning this section, Walt Kuver has expressed concerns, which are specified in Tab F.

Section 37 (Page 24)

45. Amend Section 37 to include language concerning bond payments. (**Source:** Carole Vilardo.)

46. Although she did not make any specific recommendations concerning this section, Claudette Springmeyer expressed concerns, which are specified in her April 15, 2002, memorandum (Tab D).

Section 41 (Page 26)

47. No specific recommendations were made for this section, but Brian Chally has expressed concerns, which are specified in Tab C at his Number 8.

Sections Related to the Town Council (Sections 51 through 59 on Pages 30 to 33)

48. Amend the bill to allow for staggered terms of councilmen. (**Source:** Written comments of Claudette Springmeyer on March 22 and April 15, 2002, at Tab D.)

Section 58 (Page 32 to 33)

49. No specific recommendations were made for this section, but Brian Chally has expressed concerns, which are specified in Tab C at his Number 9.

Section 60 (Page 33 to 34)

50. If members adopted the recommendations for Section 7 concerning services, Section 60 should be amended to accommodate those changes. (**Source:** NACO comments.)

51. Although he did not make any specific recommendations for this section, Brian Chally has expressed concerns, which are specified in Tab C at his Number 10.

52. Amend the bill draft to grant an incorporated town the ability to adopt ordinances concerning the fee structure

for licenses. (**Source:** Robert Spellberg at the April 15, 2002, advisory committee meeting.)

53. Although she did not make any specific recommendations for this section, Claudette Springmeyer raised a question concerning whether an incorporated town should be required to have designated business hours (see her written comments at Tab D).

Section 63 (Page 35)

54. Although he did not make any specific recommendations for this section, Brian Chally has expressed concerns, which are specified in Tab C at his Number 11.
55. Although she did not make any specific recommendations for this section, Claudette Springmeyer has expressed concerns, which are specified in Tab D.

Section 64 (Page 35)

56. Although he did not make any specific recommendations for this section, Brian Chally has expressed concerns, which are specified in Tab C at his Number 12.

Section 79 (Page 39 to 40)

57. Although he did not make any specific recommendations for this section, Brian Chally has expressed concerns, which are specified in Tab C at his Number 13.

Section 87 (Page 43)

58. Although he did not make any specific recommendations for this section, Brian Chally made an observation, which is specified in Tab C at his Number 14.

Suggestions for New Sections

59. Add a new section to amend NRS 288.060 by adding “incorporated town” to the list of local government employers. (**Source:** Written comments of Brian Chally.)
60. Add a new section to amend NRS 332.015 by adding “incorporated town” to the list of local governments that are subject to the Local Government Purchasing Act. (**Source:** Written comments of Brian Chally.)
61. Add a new section to amend subsection 7 of NRS 338.010 by adding “incorporated town” to the list of local governments that are subject to Chapter 338, “Public Works Projects.” (**Source:** Written comments of Brian Chally.)

RECOMMENDATION CONCERNING AN ISSUE THAT IS ANCILLARY TO THE STUDY

62. Encourage the chairman of the Assembly Committee on Government Affairs to introduce a bill to the 2003 Nevada Legislature that will clarify the requirements for designating boundaries and surveys for incorporated cities and unincorporated towns, and that will specify that only persons who are licensed surveyors or engineers may conduct land surveys.

OR

Encourage the chairman of the Senate Committee on Government Affairs to introduce a bill to the 2003 Nevada Legislature that will clarify the requirements for designating boundaries and surveys for incorporated cities and unincorporated towns, and that will specify that only persons who are licensed surveyors or engineers may conduct land surveys.

