

# Incorporation of Towns



Legislative Counsel Bureau  
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**INCORPORATION OF TOWNS**

**BULLETIN NO. 03-3**

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## TABLE OF CONTENTS

	<u>Page</u>
Summary of Recommendations .....	iii
Report to the 72nd Session of the Nevada Legislature by the Legislative Commission's Study to Develop and Recommend Proposed Enabling Legislation for the Creation of an Incorporated Town .....	1
I. Introduction .....	1
A. Discussion Concerning the Measure Proposing the Study .....	1
B. Brief History of Nevada's System of Local Government .....	2
1. Other Legislative Studies .....	2
2. Other Local Government Issues .....	3
II. The Study Subcommittee .....	3
III. Overview of Subcommittee Proceedings .....	5
IV. Overview of Advisory Committee .....	6
A. Description of Advisory Committee and Its Membership .....	6
B. Deliberations of the Advisory Committee .....	6
1. Guidelines for Members of the Advisory Committee .....	6
2. Guidance from the Advisory Committee .....	7
3. Draft Bill .....	8
V. Draft Bill to Provide for the Incorporation of Towns .....	8
A. Support of the Draft Bill .....	8
B. Opposition to the Draft Bill .....	9
VI. Conclusion .....	9

VII.	Appendices .....	10
	Appendix A	
	Assembly Bill 381 (Chapter 538, <i>Statutes of Nevada 2001</i> ).....	11
	Appendix B	
	Advisory Committee Membership and Affiliations .....	15
	Appendix C	
	Outline of Decision Points for Bill Draft .....	17
	Appendix D	
	Final Proposed Draft Bill.....	25

## **SUMMARY OF RECOMMENDATIONS**

### **THE LEGISLATIVE COMMISSION'S STUDY TO DEVELOP AND RECOMMEND PROPOSED ENABLING LEGISLATION FOR THE CREATION OF AN INCORPORATED TOWN**

The Legislative Commission's Study to Develop and Recommend Proposed Enabling Legislation for the Creation of an Incorporated Town, established by Assembly Bill 381 (Chapter 538, *Statutes of Nevada 2001*) did not adopt any recommendations for submittal to the 72nd Session of the Nevada Legislature.





**REPORT TO THE 72ND SESSION OF THE NEVADA LEGISLATURE  
BY THE LEGISLATIVE COMMISSION'S STUDY TO DEVELOP  
AND RECOMMEND PROPOSED ENABLING LEGISLATION  
FOR THE CREATION OF AN INCORPORATED TOWN**

This document describes a legislative study to provide for the incorporation of towns in Nevada. It includes brief background information, a discussion of selected other studies, and a description of deliberations by the full subcommittee and an appointed advisory committee.

**I. INTRODUCTION**

The State of Nevada currently has three forms of general local government, which are counties, incorporated cities, and unincorporated towns. Other forms of special government that have limited powers include general improvement districts (GIDs) and special taxing districts. The Study to Develop and Recommend Proposed Enabling Legislation for the Creation of an Incorporated Town sought to develop the parameters for another level of general local government, which would be an incorporated town.

**A. Discussion Concerning the Measure Proposing the Study**

Testimony in support of the proposed study indicated that the general law for incorporation as a city needed revision. One particular area of concern lies with the current minimum threshold for incorporating as a city, which in accordance with *Nevada Revised Statutes* (NRS) 265.010, "Requirement of more that 1,000 inhabitants for incorporation," reads:

No city or town in this state may be organized into an incorporated city unless there were more than 1,000 inhabitants residing within the limits of the city or town as determined by the last federal decennial census or the population certified by the governor pursuant to NRS 360.285, whichever is most recent, preceding the application for incorporation.

Proponents of the study indicated a preference to adopt a form of incorporating a city that is based on population and assessed valuation rather than simply the number of inhabitants of an area. For example, an existing city might meet the designated number of inhabitants to be a city, but it might not have an equitable tax base to support services desired by the citizens. Conversely, a city might have the designated number of people but 60 percent of the assessed valuation of property in the area might be commercial property and the citizens would need fewer services.

Another example that was discussed during hearings on the measure and as justification for this study was that of the City of Gabbs, Nevada. An excerpt from the minutes notes:

In the town's heyday there were over 1,100 residents with mining making up its tax base[.] [T]he recent census put the [total number of] residents at 311 with literally no commercial assessed valuation . . . if there [were] another form of government[,] Gabbs could [take advantage of it] . . . while still remaining a city.

The Gardnerville Ranchos area in Gardnerville, Nevada, which has between 10,000 and 12,000 people in the GID also was discussed during hearings on the proposed study. Outside of the assessed valuation of homes in the GID, businesses are almost nonexistent. Although the GID might not have the commercial tax base to support city services, it might be appropriate for it to become an "incorporated town" because of the number of residents in the GID. Another entity in a similar situation might include the Spring Creek Homeowner's Association in Spring Creek, Nevada, which is located in Elko County.

Additionally, proponents expressed a desire to consider the method of electing council members, which currently may be done by wards for representation, at-large representation, or a combination of both methods. Although this issue was discussed in the minutes that established the study, the study did not consider this topic.

## **B. Brief History of Nevada's System of Local Government**

As noted in the introductory paragraph, a variety of local governments exist in Nevada. The most recent form is a GID, which was provided for by statute in the late 1950s. Since that time, there have been various amendments to the statutes, and there have been suggestions for legislative studies to review the laws concerning cities, towns, GIDs, and counties.

### **1. Other Legislative Studies**

Most recently, the 1999 Legislature commissioned the *Legislative Commission's Study of City Charters, Bulletin No. 99-18*. The purpose of this study was to evaluate the city charters that existed in Nevada at the time of the study ". . . to determine which provisions would benefit from a standardization of language and whether certain provisions are already, or would more aptly be placed, within the general law."

Additionally, a statutory committee, known as the Legislative Committee to Study the Distribution Among Local Governments of Revenue from State and Local Taxes (NRS 218.5388), was formed by the Nevada Legislature. The purpose of the committee is to review laws relating to the distribution of revenues generated by state and local taxes. The committee includes eight legislators and a non-voting advisory committee consisting of the Executive Director of the Department of Taxation and ten members representing various local governments and associations of local governments. In conducting the study, the committee is to consider the purposes for which certain taxes are imposed, matters relating to the tax rate and tax base, the formula or methods of revenue distribution, the actual use of the revenue, any relief to the taxpayers from the burden of various taxes, and other related matters.

During the 2001-2002 interim period, the aforementioned committee was expected to discuss issues related to the state's tax base, including depreciation, personal property, and tax exemptions. In terms of the tax rate and distribution formulas, the committee discussed room taxes, undertook a formula review, and discussed GIDs. Finally, the committee had two subcommittees, which were the Subcommittee to Study the Cost of Maintaining Highways, Roads and Streets and the Subcommittee on the Study of the Assessment of Certain Interstate or Intercounty Property, which was the direct result of Senate Bill 411 (Chapter 601, *Statutes of Nevada 1999*).

## **2. Other Local Government Issues**

During the 2001 Legislative Session, the Nevada Legislature was placed in the position of disincorporating a Nevada city. Senate Bill 472 (Chapter 44, *Statutes of Nevada 2001*) repealed the city charter of the City of Gabbs, Nevada. The Legislature took this action because the city was in a severe financial emergency due to the decline of the city's assessed valuation of property and there was no other foreseeable solution to the problem. Nye County, in which Gabbs is located, supported the measure and agreed to provide services to the residents of Gabbs.

Additionally, two bills made changes to the way in which Nevada's cities are classified. Pursuant to Assembly Bill 381 (Chapter 538, *Statutes of Nevada 2001*) and Senate Bill 555 (Chapter 115, *Statutes of Nevada 2001*), general law cities of the first category must now have at least 50,000 residents, and cities of the second category must have fewer than 50,000 but more than 5,000 residents. All other cities are declared category three cities. Also, to apply for incorporation, the area proposed for incorporation must have at least 1,000 inhabitants. This measure also adjusted the powers and sizes of city councils based on the city's classification, and it addressed the formation of wards, representation from wards, and the appointment of the mayor pro tempore.

Another measure of interest that related to local government issues was Assembly Bill 182 (Chapter 356, *Statutes of Nevada 2001*), which limited the number of times per year a local planning commission may amend the land use element of the master plan. The measure further required participation from unincorporated towns in the review of special use permits and zoning changes that affect those towns. Finally, the bill required each member of a town advisory board to attend training on land use planning and the open meeting law at least once a year.

## **II. THE STUDY SUBCOMMITTEE**

The 71st Session of the Nevada Legislature adopted Assembly Bill 381 (Chapter 538, *Statutes of Nevada 2001*), which directed the Legislative Commission to conduct an interim study to develop and recommend proposed enabling legislation for the creation of an incorporated town. Appendix A contains the text of the measure. The study was known as the Study to Develop

Enabling Legislation for the Creation of Incorporated Towns and was commonly referred to as the “Incorporation of Towns Study.”

Members of the subcommittee during the 2001-2002 interim included<sup>1</sup>:

Assemblyman Douglas A. Bache, Chairman  
Senator Ann O’Connell  
Senator Michael Schneider  
Assemblyman David E. Humke  
Assemblyman P.M. “Roy” Neighbors

Legislative Counsel Bureau (LCB) staff services for the study were provided by:

Marla L. McDade Williams, Senior Research Analyst  
M. Scott McKenna, Principal Deputy Legislative Counsel  
Kennedy, Senior Research Secretary

The subcommittee held four meetings, including a work session, during the course of the study. Meetings were held in Carson City, Las Vegas, and Pahrump, Nevada. All meetings, with the exception of the Pahrump meeting, were held with simultaneous videoconferencing between meeting rooms at the Grant Sawyer State Office Building in Las Vegas and the Legislative Building in Carson City.

Additionally, the subcommittee formed an advisory committee to provide guidance on technical issues related to the creation of another level of government. The advisory committee was expected to identify and examine the administrative, financial, policy, and procedural issues that must be addressed if the new level of government were created. The group included representatives of the state’s counties, cities, and GIDs. The representatives included directors of agencies, financial experts, county commissioners, and staff experienced in the tax policies and practices of their respective areas.

At its fourth meeting in July 2002, the subcommittee held a work session and did not adopt any recommendations. Although members did not adopt a recommendation, the chairman of the subcommittee indicated that he would bring a bill to the 2003 Session of the Nevada Legislature that would establish a mechanism to provide for the incorporation of towns in Nevada.<sup>2</sup> This bulletin describes issues associated with the study and provides selected background information concerning local governments in Nevada.

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<sup>1</sup>Jon C. Porter, Sr., was a Senate member of the subcommittee, but he resigned his seat upon moving out of Clark County Senatorial District No. 1. His position on the subcommittee was not reassigned.

<sup>2</sup>The chairman of the subcommittee, who also was the original sponsor of the study measure, Douglas A. Bache, was not reelected to the Nevada Assembly. However, it is highly likely that a measure will be introduced to the 2003 Nevada Legislature concerning this topic.

### III. OVERVIEW OF SUBCOMMITTEE PROCEEDINGS

The first meeting of the subcommittee began with an overview of information concerning the creation and certain responsibilities of incorporated cities and unincorporated towns in Nevada. The subcommittee also heard a presentation concerning statutes in Indiana that may be used as a model to incorporate towns in Nevada.<sup>3</sup>

In addition to the staff presentations, parties who were interested in the study were given an opportunity to make their recommendations concerning the activities and priorities for the study. Testimony asked that the subcommittee include discussion of special districts, consideration of granting **home rule** benefits to counties, and determining methods to pay for new levels of government without detracting from the revenues of the existing local governments in the area. Finally, the subcommittee established a ten member advisory committee to provide guidance to the full subcommittee concerning technical issues associated with transferring responsibility and revenue and to provide guidance concerning the development of the proposed draft bill for the subcommittee.

In summarizing the focus of the study, the chairman noted the following points:

- An incorporated town might aptly fill the role of a category three city in Nevada;
- An incorporated town should not be required to provide services that it could not afford to provide;

#### What is “home rule”?

“Home rule” refers to the concept of local self-government or autonomy over internal affairs, and the power granted by the state to the citizens of a local area to structure, organize, and empower their local government. Home rule powers may generally be exercised in four areas: structural (form of local government); functional (powers of local government); fiscal (revenue sources, tax rates, borrowing, and related local functions); and personnel (employment, remuneration, collective bargaining, and related matters).

The *Constitution of the State of Nevada* and the NRS grant only limited home rule powers to local governments. Article 8, Section 8 of the constitution says:

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. [Emphasis in original.]

Chapter 267 of NRS, “Commission Form of Municipal Government,” was enacted pursuant to Article 8, Section 8, and it allows the voters of an incorporated city to change to a commission form of city government without legislative approval. Also, NRS 278.010, “Planning and Zoning; Definitions,” establishes a procedure for the voters of an incorporated city to amend the city’s charter without legislative approval.

There are no constitutional or statutory provisions in Nevada relating to home rule authority for county governments. The *Constitution of the State of Nevada* requires the Legislature to establish a uniform system of county government (Article 4, Section 25); requires the Legislature to provide for the election of a board of county commissioners in each county and to prescribe by law their duties (Article 4, Section 26); and gives the Legislature power over certain county officers, including county clerks, recorders, auditors, sheriffs, district attorneys, and public administrators (Article 4, Section 32).

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<sup>3</sup>The information in this report is designed to provide a general overview of the issues and information considered by the subcommittee. For more detailed information, please consult the minutes and exhibits from the meetings, which are available from the LCB’s Research Library. The minutes, without exhibits, are available electronically on the Legislature’s Internet Web site at [www.leg.state.nv.us](http://www.leg.state.nv.us).

- The subcommittee should consider a method to consolidate overlapping GIDs if a town wishes to incorporate in such an area;
- An incorporated town should not compete with an urban city;
- The subcommittee could consider ways to develop a sliding scale that includes population and assessed valuation to determine at what level a government should form; and
- The subcommittee should consider ways to avoid problems with the existing tax structure when an incorporated town is formed.

#### **IV. OVERVIEW OF ADVISORY COMMITTEE**

The bulk of the subcommittee's work began with the advisory committee. This section provides information about the deliberations of the advisory committee members.

##### **A. Description of Advisory Committee and Its Membership**

The bill authorized the subcommittee members to appoint an advisory committee to assist the subcommittee in carrying out its duties. If such a committee were formed, it was required to include a member of the Committee on Local Government Finance (NRS 354.105) and representatives of the Nevada League of Cities and Municipalities, the Nevada Association of Counties, and the Nevada Taxpayers' Association, or their successor organizations. Ultimately, the advisory committee included these representatives and one additional representative who is not affiliated with either of these groups. A list of the members and their affiliations is included in Appendix B.

##### **B. Deliberations of the Advisory Committee**

The advisory committee held three meetings. Each of the meetings was held in accordance with Nevada's Open Meeting Law. Members and the public were able to participate through simultaneous videoconferencing between Carson City and Las Vegas.

##### **1. Guidelines for Members of the Advisory Committee**

Members of the advisory committee were asked to provide input that would serve as the basis for a bill draft to provide for the incorporation of towns in Nevada. Such input would include identifying the procedures for incorporation, establishing the prerequisites for incorporation, developing the proposed governmental structure, ascertaining the powers of the governing body, discussing and developing methods to consolidate taxing districts, and considering other ancillary issues. An outline identifying items to consider while deliberating these points is included as Appendix C.

## **2. Guidance from the Advisory Committee**

At the first meeting of the advisory committee, some members expressed their opinion that they did not wish to create another level of government in Nevada. However, upon understanding that the bill establishing the study was intended solely to draft language for a bill to provide for the incorporation of towns in the state, members expressed their preferences concerning a law that would provide for the incorporation of towns in Nevada. Namely, the members suggested the following points for a bill draft:

- The ability to incorporate as a town should be modeled on existing incorporation statutes or statutes for unincorporated towns;
- There should be a method available to the county commissioners of a county in which an incorporated town is proposed to veto an incorporation petition if a determination is made that the incorporation is not feasible;
- There should be a method available to the petitioners to overrule the county's decision should it decide to move forward with incorporating a town, but the method should involve a supermajority of the people affected by the incorporation. Members expressed that additional work would have to be done to determine who the "affected parties" were and who was authorized to vote in an election because corporations own land, but they are not registered to vote;
- Clear boundaries should be set forth in the incorporation petition;
- At least two public hearings should be held in the proposed area of incorporation, but no decision was made by the members as to whether these meetings could be held outside of the county seat;
- Overlapping entities such as GIDs and special districts should be publicly noticed in the event of a petition to incorporate;
- Guidelines should be clear as to the parties that would pay for the costs of the incorporation, and there may be a need to amend current statutes along these lines for incorporating as a city; and
- The committee that proposes the petition to incorporate, if that were the method for incorporating, should: (1) have oversight imposed on it; (2) have formal access to legal and technical advice; (3) be required to keep a record of its minutes; (4) identify the services that will be delivered; and (5) prepare a budget so that people who vote on the incorporation know what the financial impact will be of the proposed incorporation.

An area that was very contentious with the members concerned the required, prohibited, and optional services for an incorporated town. Many members agreed that an entity that incorporates as a town should have a base of services that it must offer, but they were concerned that an entity would only want to assume the "good" services and not take on the

“bad” services. Police and fire services are expensive and therefore would be an obligation that is difficult to undertake, but members seemed to agree that an interlocal agreement for these services was sufficient to qualify as providing them.

Planning services were another area that generated discussion. Members noted that if an incorporated town had planning services then it should incorporate as a city because the responsibility for planning carries a responsibility for providing the service.

### **3. Draft Bill**

Based on the input from the advisory committee members, a document was put together that would serve as a draft bill for discussion purposes. Members had an opportunity to provide input into the document and to propose amendments to it.

A number of changes were suggested for the document, and they were presented to the full subcommittee for its consideration. Some of the proposed changes to the draft bill resulted in conflicting sections, and some of the suggested changes appeared to clash with the intent of the study, which was to establish incorporated towns in the state. At the last advisory committee meeting, a member of the committee noted:

. . . [T]he bill draft and subsequent comments to change it have resulted in a document that will preclude any efforts to incorporate. [T]he provisions must be more flexible to allow the creation of incorporated towns. (Page 12, April 15, 2002, advisory committee minutes.)

Another member noted:

. . . [T]he creation of a new level of government was intended for areas that were too large to be GIDs and did not want to function as a “full service city”  
. . . [H]ome rule is required to allow people to govern themselves, and an incorporated town is one step lower than a city but still offers some autonomy. (Page 12, April 15, 2002, advisory committee minutes.)

## **V. DRAFT BILL TO PROVIDE FOR THE INCORPORATION OF TOWNS**

The proposed changes to the draft bill, of which there were 62, were presented to the full subcommittee at two separate meetings. This section describes opposition and support to the draft bill.

### **A. Support of the Draft Bill**

Those who supported the draft bill did so largely for financial reasons. One advisory committee member indicated that the proliferation of GIDs and special districts was straining the finances of



local governments in certain areas. It was his opinion that consolidation of these districts would reduce administrative expenses and provide cohesive governance for the area.

The chairman noted that his reasons for introducing the bill and asking for the study were to enable rural cities to continue to self-direct their affairs and to alleviate the financial burden on their residents.

## **B. Opposition to the Draft Bill**

The primary opposition to the concept of creating another level of government came from the state's county governments. There was secondary opposition to the proposal that was related to resistance to consolidating the functions of GIDs in certain areas of the state.

The county governments were opposed to the concept because “. . . a specialized jurisdiction with limited authority . . . [is able to] impose costs on others outside of its jurisdiction.” Representatives of the county governments appeared to be concerned that power would be centralized with a small group of residents over the larger good of the county's residents, which would result in revenues being redistributed from the county to the incorporated town at the expense of all of the county's residents.

## **VI. CONCLUSION**

At the last meeting of the subcommittee, the chairman indicated that he did not intend to include the proposed amendments that were made by representatives of the state's counties. He expressed his opinion that the amendments were in conflict with the intent of the study, and he authorized a revision of the draft bill that incorporated suggestions that were consistent with proceeding with a bill to provide for the incorporation of towns in Nevada. Appendix D includes the final proposed draft bill.

The subcommittee members were unable to reconcile the differences among advisory committee members, and they ultimately agreed not to adopt the proposed draft bill as a subcommittee recommendation. Consequently, the chairman indicated that he would proceed on his own and request a personal bill draft to provide for the incorporation of towns in the state.<sup>4</sup>

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<sup>4</sup>Please see Footnote 2 on Page 4 of this report.

## VII. APPENDICES

	<u>Page</u>
Appendix A	
Assembly Bill 381 (Chapter 538, <i>Statutes of Nevada 2001</i> ).....	11
Appendix B	
Advisory Committee Membership and Affiliations .....	15
Appendix C	
Outline of Decision Points for Bill Draft .....	17
Appendix D	
Final Proposed Draft Bill.....	25

## APPENDIX A

Assembly Bill 381 (Chapter 538, *Statutes of Nevada 2001*)



Assembly Bill No. 381–Assemblymen Bache, Neighbors, Giunchigliani, de Braga, Gibbons, Anderson, Berman, Brown, Buckley, Carpenter, Chowning, Freeman, Hettrick, Lee, Leslie, Manendo, Mortenson, Ocegüera, Parks, Parnell, Smith, Tiffany and Von Tobel

Joint Sponsors: Senators Amodei and Carlton

CHAPTER.....

AN ACT relating to local governments; revising the provisions relating to the incorporation and organization of cities; directing the Legislative Commission to conduct an interim study to develop and recommend proposed enabling legislation for the creation of an incorporated town; and providing other matters properly relating thereto.

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

**Section 1.** NRS 265.010 is hereby amended to read as follows:

265.010 No city or town in this state may be organized into an incorporated city unless *there were* more than ~~{250 electors}~~ *1,000 inhabitants* residing within the limits of the city or town ~~{at least ballots at the general election last}~~ *as determined by the last federal decennial census or the population certified by the governor pursuant to NRS 360.285, whichever is most recent,* preceding the application for incorporation.

**Sec. 2.** NRS 266.055 is hereby amended to read as follows:

266.055 Municipal corporations organized under the provisions of this chapter ~~{shall be, and the same are,}~~ *must be* divided into ~~three~~ classes:

1. Those cities having ~~{20,000}~~ *50,000* or more inhabitants ~~{shall be known as}~~ *are* cities of the first class.
2. Those cities having ~~{more than 5,000 and less than 20,000 inhabitants shall be known as}~~ *5,000 or more but less than 50,000 inhabitants are* cities of the second class.
3. ~~{All other cities shall be known as}~~ *Those cities having less than 5,000 inhabitants are* cities of the third class.

**Sec. 3.** NRS 266.060 is hereby amended to read as follows:

266.060 1. Whenever any city of the second class attains the population of ~~{20,000}~~ *50,000* or more, ~~or any city of the third class attains the population of 5,000 or more,~~ and that fact is ascertained:

(a) By actual census taken and certified to the governor by the mayor; or

(b) At the option of the city council, by the governor, pursuant to NRS 360.285, for 2 consecutive years,

the governor shall declare, by public proclamation, that city to be of the first ~~or second class,~~ ~~{as the case may be,}~~ and the city thus changed is governed by the provisions of this chapter ~~{}~~ applicable to cities of the *higher* class.

2. An authenticated copy of the governor's proclamation must be filed in the office of the secretary of state.

**Sec. 4.** 1. The Legislative Commission shall appoint a subcommittee consisting of six legislators to conduct an interim study to develop and recommend proposed enabling legislation for the creation of an incorporated town. The subcommittee must consist of:

(a) Two members appointed by the Majority Leader of the Senate from the membership of the Senate Standing Committee on Government Affairs during the immediately preceding session of the legislature;

(b) One member appointed by the Majority Leader of the Senate from the membership of the Senate Standing Committee on Taxation during the immediately preceding session of the legislature;

(c) Two members appointed by the Speaker of the Assembly from the membership of the Assembly Standing Committee on Government Affairs during the immediately preceding session of the legislature; and

(d) One member appointed by the Speaker of the Assembly from the membership of the Assembly Standing Committee on Taxation during the immediately preceding session of the legislature.

2. The subcommittee may appoint an advisory committee to assist the subcommittee in carrying out its duties. Such an advisory committee must include a member of the Committee on Local Government Finance and representatives of the Nevada League of Cities and Municipalities, the Nevada Association of Counties and the Nevada Taxpayers Association, or their successor organizations. Members of the advisory committee serve without compensation, but are entitled to receive the per diem allowance and travel expenses provided for state officers and employees generally while engaged in the business of the advisory committee. The per diem allowance and travel expenses must be paid from the legislative fund.

3. The subcommittee may form such subcommittees of its members as are necessary to study specific issues within the jurisdiction of the subcommittee.

4. The subcommittee shall meet as frequently as necessary to complete the recommendations for the proposed legislation.

5. In conducting the study, the subcommittee shall:

(a) Determine appropriate procedures for the incorporation of and the governmental structure of an incorporated town;

(b) Identify and analyze the appropriate mandatory and optional powers that the governing body of an incorporated town may exercise;

(c) Consider the consolidation of any taxing district that may overlap with the boundaries of an incorporated town; and

(d) Consider existing statutes governing incorporated cities and unincorporated towns, including, without limitation, population data, governmental structure and operations, and any other matter that the subcommittee determines is relevant to the study.

6. The subcommittee may submit recommended legislation that is approved by a majority of the members of the Assembly appointed to the subcommittee and a majority of the members of the Senate appointed to the subcommittee to the Legislative Commission.

7. The Legislative Commission shall submit a report of the results of the study and any recommendations for legislation to the 72nd session of the Nevada Legislature.

**Sec. 5.** This act becomes effective on passage and approval.

## APPENDIX B

### Advisory Committee Membership and Affiliations

#### Nevada League of Cities and Municipalities

Gary Cordes, City Clerk, City of Fallon

Terrance Marren, Mesquite City Attorney, Mesquite

Robert Spellberg, Gardnerville Ranchos GID, District Manager and former Ely City Manager

#### Nevada Taxpayer's Association

Tim Hafen, Pahrump

Guy Hobbs, Hobbs, Ong & Associates, Las Vegas

Marvin Leavitt, Overton

#### Committee on Local Government Finance

John Sherman, Finance Director, Washoe County, Reno

#### Nevada Association of Counties

Jim Spinello, Clark County Representative/Lobbyist, Las Vegas

Claudette Springmeyer, Comptroller for Douglas County, Minden

#### Miscellaneous Appointment

Janet Murphy, Administrator, Tahoe-Douglas District, Zephyr Cove





## APPENDIX C

### Outline of Decision Points for Bill Draft



## **Checklist of decisions to be made preparatory to drafting legislation for the incorporation of towns**

The following list of decisions that will need to be made before the Legal Division of LCB can produce draft legislation is not an exclusive list. The list merely sets forth certain minimum information that LCB will need to know to begin to draft legislation to provide for the creation of incorporated towns. In all likelihood, additional issues will be raised that also need to be considered.

### **[A] Procedures for incorporation**

(1) Will the procedure begin by petition of the persons who live in the affected area, or by another method? If a petition is to be used:

- (a) How many signatures will be required?
- (b) To what entity will the petition be submitted?

(2) Once the petition (if a petition is used) is submitted to the appropriate entity (e.g., the board of county commissioners), does that entity need to hold a hearing on the matter? If so, what type of notice will be required for the hearing and to whom must such notice be provided?

(3) Does there need to be a mechanism pursuant to which a group of persons in the affected area (for example, a group of persons that constitutes a certain percentage of the population or holds a certain percentage of the assessed valuation) can cause the process of incorporation to be terminated?

(4) Will other local governments need to consent to the incorporation before the incorporation may take place? If actual “consent” is not required, will these other local governments be allowed some lesser form of “input” regarding the process? Regarding both of these questions, should there be criteria to determine whether other local governments will be affected by the proposed incorporation such that they must give their consent or are allowed to submit their input (e.g., within a certain distance of the area to be incorporated)?

Scott McKenna  
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December 10, 2001  
Page 1

(5) Will the local government that handles the procedure of incorporation after the process begins (e.g., the board of county commissioners) be vested with discretion to allow or not allow the incorporation, or is such local government's role merely "ministerial," serving only to make sure that the petitioners have complied with the stated procedures? In other words, can the county say "no" to the incorporation even if the petitioners want to incorporate and otherwise comply with the statutory requirements?

(6) Again assuming that a petition is used to begin the process of incorporation, should the process of incorporation be able to be finalized by vote of the local government that receives the petition (e.g., the board of county commissioners), or will the matter have to go to a public vote? If a public vote is required:

(a) Would the vote be county-wide or only among those persons who live in the area that is proposed for incorporation?

(b) Should the persons proposing the incorporation (the petitioners) be required to pay the costs of holding the election? If the petitioners are required to pay for the election, would they be required to pay those costs in all instances, or only if the petition is unsuccessful?

### **[B] Prerequisites for incorporation**

(1) Before a given area may incorporate, must that area have a certain minimum population and/or a certain minimum assessed valuation? At the 11/8 meeting, certain persons spoke favorably of the concept of a "sliding scale" between minimum population and assessed valuation.

(2) Although this also pertains to "powers," below, must there be (as Indiana requires) agreement as to the provision of a certain range of services before incorporation is allowed? In other words, would a proposed incorporated town only be allowed to incorporate if that incorporated town was going to provide a certain "range" of services?

Scott McKenna  
Legal Division  
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December 10, 2001  
Page 2

(3) Would it be necessary to conduct a survey of the area to be incorporated? If so, would the survey have to be carried out by persons with certain engineering or surveying credentials?

(4) Must the persons desiring incorporation (the petitioners) set forth the manner in which proposed services will be paid for (e.g., from where will the tax revenue come to pay for any proposed services)?

(5) Pursuant to NRS 361.453 (with exceptions provided for certain severe financial emergencies and for certain matters pertaining to hospital districts), the ceiling on property taxes is \$3.64 for every \$100 of assessed valuation. Nev. Art. 10, § 2 absolutely limits ad valorem taxation to \$5.00 for every \$100 of assessed valuation. Would any type of survey or assessment need to take place with respect to the area proposed to be incorporated to ensure that any additional taxes for proposed services would not cause the relevant caps to be exceeded?

(6) In a general sense, will the ability to incorporate be based on the satisfaction of certain criteria (to be judged or assessed, for example, by the board of county commissioners) or will the ability to incorporate be based primarily on the desire to incorporate of the persons in the affected area?

### **[C] Governmental structure**

(1) Will the legislative body of an incorporated town have members who are elected “at large,” or will there be wards or districts from which such members are elected? How many members will serve on the legislative body?

(2) Other than the main legislative body (e.g., town board or town council), what officers or other officials will an incorporated town have? Should such other officers and officials be mandatory for an incorporated town, or should they be optional depending upon a particular incorporated town’s needs?

(3) Will the legislative body of an incorporated town be required to consult with other local governments in the making of certain decisions (or get the approval of such other local governments), or will an incorporated town function more or less autonomously?

Scott McKenna  
Legal Division  
Legislative Counsel Bureau  
December 10, 2001  
Page 3

## **[D] Powers of governing body**

(1) What powers should the governing body of an incorporated town have? Some examples to consider are whether the governing body (or the incorporated town itself, as applicable) should be able to:

- (a) Pass ordinances.
- (b) Levy taxes.
- (c) Exercise control over matters of zoning and land use planning.
- (d) Provide police and/or fire protection/
- (e) Provide for the construction, maintenance and lighting of streets.
- (f) Construct sewers and/or provide sewage and/or garbage service.
- (g) Exercise authority in the area of schools and education.
- (h) Provide or arrange for utility services.

(2) Will there be particular powers that the governing body or the incorporated town is specifically prohibited from exercising?

## **[E] Consolidation of taxing districts**

(1) Which types of taxing districts would be considered for consolidation upon the incorporation of a town (e.g., general improvement districts, local improvement districts, special improvement districts)?

(2) Would consolidation occur such that the pertinent taxing districts would be absorbed into the incorporated town, or would the taxing districts be consolidated in some way in which they would remain separate from the incorporated town?

(3) Would consolidation of taxing districts occur simultaneously with the creation of an incorporated town or at some later time?

(4) Would consolidation of taxing districts be mandatory upon the creation of an incorporated town or only optional?

Scott McKenna  
Legal Division  
Legislative Counsel Bureau  
December 10, 2001  
Page 4

(5) If taxing districts overlap completely in some areas, overlap partially in other areas, and do not overlap at all in other areas (imagine a “Venn diagram” like the Olympic rings logo), what mechanisms will need to be created to ensure that taxing districts are consolidated in a manner such that taxation is fair and equal?

### **[F] Miscellaneous issues**

(1) Nev. Art. 4, § 25 requires the Legislature to establish a “system of County and Township Government which shall be uniform throughout the State.” Because of this constitutional provision, legislation allowing the creation of incorporated towns could not provide for the creation of incorporated towns only in certain counties.

(2) Nev. Art. 10, § 1 requires the Legislature to “provide by law for a uniform and equal rate of assessment and taxation.” This is just something to bear in mind regarding the creation/imposition of any taxes that might be necessary to support the services to be provided by an incorporated town.

(3) What procedures will be created (if any) to provide for the disincorporation of an incorporated town?

Scott McKenna  
Legal Division  
Legislative Counsel Bureau  
December 10, 2001  
Page 5





## APPENDIX D

### Final Proposed Draft Bill



SUMMARY—Provides for creation and administration of incorporated towns.

(BDR 21-XXXX)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: No.

AN ACT relating to local government; providing for the creation and administration of incorporated towns; and providing other matters properly relating thereto.

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

**Section 1.** Title 21 of NRS is hereby amended by adding thereto a new chapter to consist of the provisions set forth as sections 2 to 81, inclusive, of this act.

**- GENERAL PROVISIONS -**

**Sec. 2.** *As used in this chapter, unless the context otherwise requires, “town” means a town incorporated pursuant to sections 4 to 37, inclusive, of this act.*

**Sec. 3.** *The municipal government of all incorporated towns under this chapter is hereby vested in a mayor and a town council.*

**- INCORPORATION; ORGANIZATION -**

**Sec. 4.** *As used in sections 4 to 37, inclusive, of this act, unless the context otherwise requires:*

**1.** *“Committee” means a committee formed to organize an incorporated town, as described in section 6 of this act.*

**2.** *“County clerk” means “registrar of voters” in those counties where such office has been created pursuant to the provisions of NRS 244.164.*

**3.** *“Qualified elector” means a person who is registered to vote in this state and is a resident of the area to be included in the proposed incorporated town, as shown by the last official registration lists.*

**3.** *A petition is “sufficient” if the county clerk:*

*(a) Verifies the signatures and addresses of the signers of the petition with the voting list maintained by the county registrar of voters;*

*(b) Certifies that the number of valid signatures represents the percentage of the total number of qualified electors in the area proposed to be incorporated that is required; and*

*(c) Determines that the petition for incorporation includes the information required pursuant to section 8 of this act.*

**4.** *“Urban in character” means an area that is used intensively for residential, commercial, industrial, institutional, urban recreational or governmental purposes, or as conservation park lands, and that is susceptible to services offered by an incorporated town.*

5. A lot or parcel is “used for residential purposes” if it is 5 acres or less in area and improved with a habitable dwelling unit of a permanent nature.

Sec. 5. The area to be included in a town proposed to be incorporated pursuant to sections 4 to 37, inclusive, of this act must:

1. Be currently used or suitable for residential, commercial, industrial or governmental purposes.

2. Be contiguous and urban in character, and include all contiguous area used for residential purposes.

3. Be susceptible to the provision of uniform public services.

4. ~~{In a county whose population is 100,000 or more, have}~~ Except as otherwise provided in this subsection, have an average population density which is:

(a) Not less than three persons per acre if the proposed incorporated town is within 7 miles of the county seat; or

(b) At least equal to the density of any city or incorporated town that is within 7 miles of the proposed boundaries, if the proposed incorporated town is not within 7 miles of the county seat.

If the area proposed to be included in the incorporated town is more than 7 miles away from the county seat and more than 7 miles away from any existing city or incorporated town, there is no requirement concerning density of population.

5. Not include any portion of a parcel of privately owned real property that has not been subdivided and is 100 acres or more in area without the written consent of the owner.

6. Not include any area within the boundaries of an existing incorporated city or existing incorporated town.

7. ~~{If the area of a town proposed to be incorporated includes the area of any:}~~

~~—(a) Unincorporated town, include the entire area of that unincorporated town.~~

~~—(b) General improvement district, include the entire area of that district.~~

~~—8. If the area of a town proposed to be incorporated is composed:~~

(a) Exclusively of property used for residential purposes, have a population of at least 3,000.

(b) Of property not used exclusively for residential purposes, have a population of at least 1,000.

Sec. 5A. The area to be included in a town proposed to be incorporated pursuant to sections 4 to 37, inclusive, of this act must:

1. Be currently used or suitable for residential, commercial, industrial or governmental purposes.

2. Be contiguous and urban in character, and include all contiguous area used for residential purposes.

3. Be susceptible to the provision of uniform public services.

4. In a county whose population is ~~{100,000}~~ 400,000 or more, have an average population density which is:

(a) Not less than three persons per acre if the proposed incorporated town is within 7 miles of the county seat; or

(b) At least equal to the density of any city or incorporated town that is within 7 miles of the proposed boundaries, if the proposed incorporated town is not within 7 miles of the county seat.

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*If the area proposed to be included in the incorporated town is more than 7 miles away from the county seat and more than 7 miles away from any existing city or incorporated town, there is no requirement concerning density of population.*

*5. In a county whose population is 100,000 or more but less than 400,000, have an average population density which is not less than three persons per acre.*

*6. Not include any portion of a parcel of privately owned real property that has not been subdivided and is 100 acres or more in area without the written consent of the owner.*

~~{6-}~~ *7. Not include any area within the boundaries of an existing incorporated city or existing incorporated town.*

~~{7-}~~ *8. If the area of a town proposed to be incorporated includes the area of any:*

*(a) Unincorporated town, include the entire area of that unincorporated town.*

*(b) General improvement district, include the entire area of that district.*

~~{8-}~~ *9. If the area of a town proposed to be incorporated is composed:*

*(a) Exclusively of property used for residential purposes, have a population of at least 3,000.*

*(b) Of property not used exclusively for residential purposes, have a population of at least 1,000.*

*Sec. 5B. The area to be included in a town proposed to be incorporated pursuant to sections 4 to 37, inclusive, of this act must:*

*1. Be currently used or suitable for residential, commercial, industrial or governmental purposes.*

*2. Be contiguous and urban in character, and include all contiguous area used for residential purposes.*

*3. Be susceptible to the provision of uniform public services.*

*4. In a county whose population is 100,000 or more, have an average population density which is:*

*(a) Not less than three persons per acre if the proposed incorporated town is within 7 miles of the county seat; or*

*(b) At least equal to the density of any city or incorporated town that is within 7 miles of the proposed boundaries, if the proposed incorporated town is not within 7 miles of the county seat.*

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*If the area proposed to be included in the incorporated town is more than 7 miles away from the county seat and more than 7 miles away from any existing city or incorporated town, there is no requirement concerning density of population.*

*5. Not include any portion of a parcel of privately owned real property that has not been subdivided and is 100 acres or more in area without the written consent of the owner.*

*6. Not include any area within the boundaries of an existing incorporated city or existing incorporated town.*

*7. If the area of a town proposed to be incorporated includes the area of any:*

*(a) Unincorporated town, include the entire area of that unincorporated town.*

*(b) General improvement district, include the entire area of that district.*

*8. If the area of a town proposed to be incorporated is composed {:*

~~—(a) Exclusively of property used for residential purposes,} of property of which:~~

~~(a) Less than 50 percent is commercial and industrial, have a population of at least {3,000-~~

~~—(b) Of property not used exclusively for residential purposes,} 1,500.~~

*(b) At least 50 percent is commercial and industrial, have a population of at least ~~{1,000.}~~ 750.*

**Sec. 6. 1.** *If a committee of five qualified electors wishes to organize an incorporated town, it may file a notice to incorporate with the county clerk of the county in which the town proposed to be incorporated is located.*

*2. The notice to incorporate must include:*

*(a) A copy of the petition for incorporation which will be circulated; and*

*(b) An affidavit signed by each member of the committee.*

*3. The affidavit must include:*

*(a) A statement that the committee will be responsible for circulating and filing the petition with the county clerk;*

*(b) The names and addresses of the members of the committee; and*

*(c) The address to which written notices relating to the incorporation must be sent.*

**Sec. 7. 1.** *A committee organized pursuant to section 6 of this act shall identify and select no fewer than four of the following services to be provided ~~{or arranged for}~~ by the incorporated town:*

*(a) Police protection.*

*(b) Fire protection.*

*(c) Zoning and land use planning, including the enforcement of ordinances and other requirements relating thereto.*

*(d) Construction, maintenance and repair of roads.*

*(e) Water and sewer services.*

*(f) Garbage collection.*

*(g) Emergency medical services.*

*(h) Parks and recreation.*

*2. The initial selection of a certain number of services to be provided by an incorporated town does not prohibit the provision of additional services at a later time.*

**Sec. 7A. 1.** *A committee organized pursuant to section 6 of this act shall identify and select no fewer than four of the following services to be provided or arranged for by the incorporated town:*

*(a) Police protection.*

*(b) Fire protection.*

*(c) Zoning and land use planning, including the enforcement of ordinances and other requirements relating thereto.*

*(d) Construction, maintenance and repair of roads.*

*(e) Water and sewer services.*

*(f) Garbage collection.*

*(g) Emergency medical services.*

*(h) Parks and recreation.*

*2. The initial selection of a certain number of services to be provided by an incorporated town does not prohibit the provision of additional services at a later time.*

*3. With regard to any service the provision of which will be arranged for and not provided directly by the incorporated town, the committee must, before the holding of the election described in section 22 of this act, ensure that the provision of the service is secured by way of a signed agreement or interlocal agreement between the service provider and the incorporated town.*

Sec. 8. 1. *The petition for incorporation must include the following information concerning the area proposed to be incorporated:*

(a) *A description of the area prepared by a professional land surveyor licensed pursuant to chapter 625 of NRS, which need not be made from a current survey nor contain courses and distances measured from fixed points, but may be based upon assessor's parcel maps, existing boundaries of subdivision or parcel maps, visible ground features, extensions of the visible ground features, or by any boundary that coincides with the official boundary of the state, a county, a city, an incorporated town, a township, a section or any combination thereof.*

(b) *The proposed name of the incorporated town.*

(c) *The total acreage of the area.*

(d) *The total assessed valuation of the area.*

(e) *The number of persons who reside in the area.*

(f) *The number of owners of record of real property within the area.*

(g) *A statement that the area meets the requirements of section 5 of this act.*

(h) *A statement of the committee's plans for providing ~~for~~ the services selected pursuant to section 7 of this act, with an estimate of the costs and sources of revenue. ~~[The statement must set forth in detail any plans of the committee to arrange for the provision of services to the incorporated town by another local government pursuant to interlocal agreement.]~~*

(i) *A map or plat of the area which is prepared from the description required by paragraph (a) and that shows the existing dedicated streets, sewer interceptors and outfalls and their proposed extensions.*

2. *The petition must be substantially in the following form:*

#### **PETITION FOR INCORPORATION**

*To the Board of County Commissioners of ..... County, Nevada:*

*We, the undersigned qualified electors of the State of Nevada respectfully petition the board of county commissioners to submit a proposal to incorporate as a town certain unincorporated contiguous area located within ..... County namely, ..... (describe area to be incorporated), to the qualified electors who reside within the area to be incorporated, for their approval or disapproval at a special election to be held for that purpose.*

*Each signer of this petition states:*

1. *I have personally signed this petition as a qualified elector of this state; and*

2. *I have correctly stated on this petition my residence, mailing address and the date of my signature.*

Sec. 9. 1. *The petition may consist of more than one document. Each document must:*

(a) *Be uniform in size and form;*

(b) *Have affixed to it when filed, an affidavit signed by the person who circulated the petition which attests that:*

(1) *He personally circulated the document;*

(2) *Each signature contained in the document was signed in his presence and is genuine to the best of his knowledge and belief; and*

(3) *Each signer had an opportunity before signing to examine the document and the information which is required to be attached to the document pursuant to subsection 1 of section 8 of this act.*

2. Each document of the petition must have affixed to it the information described in subsection 1 of section 8 of this act.

Sec. 10. 1. The county clerk shall invalidate the signature of any qualified elector if the signature is not signed in ink and dated or if the signature is executed before the notice to incorporate and the petition for incorporation are filed with the county clerk pursuant to section 6 of this act. The county clerk shall not invalidate a signature because it does not correspond exactly to the signature on the registrar of voters' register if he is able to determine the identity of the signer from the signature on the petition.

2. A petition for incorporation must contain a number of signatures equal to at least ~~15 percent~~ one-third (Walt Kuver of Pahrump suggests maintaining 15 percent) of the qualified electors within the boundaries of the town proposed to be incorporated. In addition, the number of qualified electors signing the petition must own at least 5 percent of the assessed valuation of the property within the boundaries of the town proposed to be incorporated.

3. The petition containing the required number of signatures must be filed with the county clerk within 90 days after the notice to incorporate is filed pursuant to section 6 of this act.

Sec. 10A. 1. The county clerk shall invalidate the signature of any qualified elector if the signature is not signed in ink and dated or if the signature is executed before the notice to incorporate and the petition for incorporation are filed with the county clerk pursuant to section 6 of this act. The county clerk shall not invalidate a signature because it does not correspond exactly to the signature on the registrar of voters' register if he is able to determine the identity of the signer from the signature on the petition.

2. A petition for incorporation must contain a number of signatures equal to at least 15 percent of the qualified electors within the boundaries of the town proposed to be incorporated ~~[- In addition, the number of qualified electors signing the petition must own at least 5 percent of the assessed valuation of the property within the boundaries of the town proposed to be incorporated.]~~ who, together with any corporate petitioners own not less than 5 percent in assessed value of the taxable real property within the territory of the proposed incorporated town. For the purpose of this section, the number of qualified electors must be determined as of January 1 of the year in which the petition is circulated, and the assessed values must be determined from the assessed roll for that fiscal year. An authorized corporate officer may sign such a petition regardless of whether he is a qualified elector.

3. The petition containing the required number of signatures must be filed with the county clerk within 90 days after the notice to incorporate is filed pursuant to section 6 of this act.

Sec. 11. 1. Within 30 days after the petition is filed pursuant to section 10 of this act, the county clerk shall verify the signatures and issue a certificate as to the sufficiency of the petition and send a copy of the certificate by registered or certified mail to the committee. If the petition is insufficient, the county clerk shall include in the certificate the reasons for the insufficiency of the petition.

2. A person who signs the petition may request that his name be removed from the petition by submitting to the county clerk a written request therefor under penalty of perjury not later than 15 days after the petition for incorporation is filed pursuant to section 10 of this act.

Sec. 12. 1. A petition which lacks the required number of signatures may be amended once if the committee files a notice to amend with the county clerk within 2 days after it



*receives written notice from the county clerk pursuant to section 11 of this act. The committee must file with the county clerk an amended petition containing the additional required signatures within 8 days after it files a notice to amend. An amended petition must comply with the requirements of the petition as originally filed.*

*2. Within 10 days after the amended petition is filed, the county clerk shall verify the signatures and send a copy of the certificate by registered or certified mail to the committee.*

**Sec. 13.** *1. The county clerk shall promptly file with the board of county commissioners the certificate for:*

*(a) A petition or amended petition which he determines is sufficient; and*

*(b) A petition or amended petition which he determines is insufficient if a notice to amend or a notice to review is not timely filed by the committee.*

*The sufficiency of the petition as certified by the county clerk shall be deemed a final determination of the board.*

*2. The committee may, within 2 days after it receives written notice from the county clerk that the petition or amended petition is insufficient, file a notice to review with the board of county commissioners. The board shall determine the sufficiency of the petition within 30 days after it receives the notice to review. The decision of the board is a final determination for the purposes of judicial review.*

**Sec. 14.** *Upon receipt of a petition that has been certified as sufficient by the county clerk, the board of county commissioners shall:*

*1. Within 30 days request a report on the advisability of incorporation and the feasibility of the proposed town, including, without limitation, the factors set forth in section 21 of this act and a determination of whether the requirements set forth in section 5 of this act have been satisfied, from the committee on local government finance. The report must be in writing and be delivered to the board of county commissioners not later than 90 days after the report is requested, unless the committee determines the requirements set forth in section 5 of this act have not been satisfied. Upon receipt of the report, the board shall supply a copy of the report upon request to any person for the cost of reproduction.*

*2. Within 30 days transmit a copy of the petition to the executive director of the department of taxation.*

*3. Transmit a copy of the petition to any state, county or regional planning commission or agency that exercises planning authority over any part of the area proposed to be incorporated and to every other local government within the county.*

**Sec. 15.** *A commission, agency or district that receives a petition pursuant to subsection 3 of section 14 of this act may:*

*1. Review the petition for the proposed incorporation considering:*

*(a) The operating charter or enabling laws of the commission, agency or district;*

*(b) The factors set forth in section 21 of this act; and*

*(c) Any other information in its possession.*

*2. Report its recommendations regarding the proposed incorporation to the board of county commissioners in writing, not later than 60 days after it receives the petition.*

**Sec. 16.** *1. The department of taxation shall prepare a concise statement concerning the estimated fiscal effect of the incorporation on the residents of the proposed town, including an estimated tax rate and an example of that tax rate applied for 1 year to a median-priced home in the area of the proposed town compared to an example of the present tax rate in the area applied for the same period to the same home.*

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2. *Within 30 days after receipt of the petition from the board of county commissioners, the department of taxation shall file with the committee on local government finance a statement of estimated fiscal effect prepared pursuant to subsection 1, and any explanatory material and calculations.*

3. *The committee on local government finance shall:*

(a) *Approve or revise and approve the statement of estimated fiscal effect at a public meeting; and*

(b) *Transmit the statement to the county clerk within 30 days after receipt of the statement from the department of taxation.*

4. *The statement of estimated fiscal effect prepared by the department of taxation must not affect any subsequent calculations made by the department if the town is incorporated.*

Sec. 17. 1. *If the committee on local government finance determines that a petition for incorporation does not satisfy the requirements set forth in section 5 of this act, it shall notify the board of county commissioners in writing.*

2. *After a determination by the committee on local government finance that a petition does not satisfy the requirements of section 5 of this act, no further action on the petition for incorporation may be taken unless the determination is reversed by a district court pursuant to section 18 of this act.*

Sec. 18. *A qualified elector or any other person who has an ownership interest in real property within the area proposed to be incorporated, and who is aggrieved by the determination of the committee on local government finance pursuant to section 17 of this act may appeal the determination to the district court within 30 days after the committee notifies the board of county commissioners of the determination. The district court shall limit its review to the issues contained within the record of the public hearing and in the determination. The district court may allow the record to be supplemented by additional evidence concerning those issues. The determination of the committee on local government finance may be reversed only upon a showing that the determination is in violation of constitutional or statutory provisions, is arbitrary or capricious or involves an abuse of discretion. If the determination of the committee on local government finance is reversed, the committee shall complete its report pursuant to section 14 of this act and the procedure for incorporation must be continued as if the committee on local government finance had not made its determination.*

Sec. 19. 1. *The board of county commissioners shall, within 14 days after it receives the report requested pursuant to section 14 of this act, designate a date, time and place for a public hearing on the petition and the report.*

2. *The date of the public hearing must not be earlier than 14 days nor later than 30 days after the date on which the date, time and place of the public hearing was designated.*

3. *The board of county commissioners shall cause notice of the public hearing, including a copy of the petition without signatures, to be published in a newspaper of general circulation within the county at least 7 days before the hearing is held. The text of the notice must be published in display type that is at least 10-point in size. The board shall provide notice of the date, time and place set for the public hearing at least 7 days before the hearing is held to the governing body of each city or town within the county.*

Sec. 20. 1. *The board of county commissioners shall keep a record of the hearing and include as part of the record the report requested pursuant to section 14 of this act and any report submitted by a commission, agency or district pursuant to section 15 of this act.*

2. *The board of county commissioners shall allow any interested person to present oral or written testimony at the hearing. The board may invite representatives from state and local governments to present testimony.*

3. *The board may hold additional hearings but all hearings on the petition must be completed within 30 days after the initial hearing is held.*

Sec. 21. 1. *To determine the advisability of incorporation and the feasibility of the proposed town, the board of county commissioners shall consider the following factors with regard to the area proposed to be incorporated:*

(a) *Its population and, if the area is located in a county whose population is 100,000 or more, the density of population;*

(b) *The land area, land uses, topography, natural boundaries and drainage basin;*

(c) *The extent to which the area is devoted to agriculture, mineral production or other uses that may not require significant improvements to the property;*

(d) *The extent of commercial and industrial development;*

(e) *The extent and age of residential development;*

(f) *The comparative size and assessed value of subdivided land and unsubdivided land;*

(g) *Current and potential issues concerning transportation;*

(h) *Past expansion of population and construction;*

(i) *The likelihood of significant growth in the area and in adjacent incorporated and unincorporated areas during the next 10 years;*

(j) *The present cost, method and adequacy of regulatory controls and governmental service, including, without limitation, water and sewer service, fire rating and protection, police protection, improvement and maintenance of streets and recreational facilities in the area and the future need for such services and controls;*

(k) *The present and projected revenues for the county and the proposed town;*

(l) *The probable effect of incorporation on revenues and services in the county and local governments in adjacent areas;*

(m) *The probable effect of the proposed incorporation and of any alternatives to incorporation on the social, economic and governmental structure of the affected county and adjacent areas;*

(n) *The probable effect of the proposed incorporation and of any alternatives to incorporation on the availability and requirement of water and other natural resources; and*

(o) *Any determination by a governmental agency that the area is suitable for residential, commercial or industrial development, or that the area will be opened to private acquisition.*

2. *If the area proposed to be incorporated is within 5 miles of an existing city or incorporated town, in addition to the factors listed in subsection 1, the board of county commissioners shall consider:*

(a) *The size and population of the existing city or incorporated town;*

(b) *Growth in population and commercial and industrial development in the existing city or incorporated town during the past 10 years;*

(c) *Any extension of the boundaries of the existing city or incorporated town during the past 10 years;*

(d) *The probability of growth of the existing city or incorporated town toward the area proposed to be incorporated in the next 10 years, considering natural barriers and other factors that might influence such growth; and*

(e) *The willingness of the existing city to annex the area proposed for incorporation and to provide services to the area.*

3. *The board of county commissioners shall also consider:*

(a) *The recommendations of any commission, agency, district or member of the public who submits a written report;*

(b) *Testimony from any person who testifies at a hearing; and*

(c) *Existing petitions for annexation of any part of the area.*

Sec. 22. 1. *Upon conclusion of the final hearing, the board of county commissioners may take the matter under consideration and shall, within 30 days after the conclusion of the hearing, issue an opinion, in writing, concerning the advisability of the incorporation and the feasibility of the proposed town.*

2. *If the board's written opinion concludes that the incorporation is advisable and the proposed town is feasible, an affirmative vote of a majority of the voters voting on the matter is required to constitute approval by the voters of the incorporation of the town. If the board's written opinion concludes that the incorporation is not advisable or the proposed town is not feasible, or both, an affirmative vote of ~~three-fourths~~ two-thirds of the voters voting on the matter is required to constitute approval by the voters of the incorporation of the town.*

3. *The board shall designate a date on which the election will be held. The date of the election must not be earlier than 60 days nor later than 120 days after the board issues its opinion.*

4. *The board shall cause notice of the election to be published in a newspaper of general circulation within the county at least once each week for 3 consecutive weeks. The text of the notice must be published in display type that is at least 10-point in size. The final publication of notice must be published before the day of the election.*

5. *The notice must include a copy of the petition, a description of the area proposed to be incorporated, the statement of the estimated fiscal effect of the proposed incorporation prepared pursuant to section 16 of this act, the location of the polling places and the date and time of the election.*

Sec. 23. *A petition for incorporation may be withdrawn at any time before the 30th day preceding the day of the election held pursuant to section 22 of this act if a notice of withdrawal signed by at least four members of the committee is filed with the county clerk. Upon filing the notice of withdrawal, no further action may be taken on the petition for incorporation.*

Sec. 24. *The ballots used for the election held pursuant to section 22 of this act must:*

1. *Be in substantially the following form:*

*Shall the area described as .....(describe area) be incorporated as the Town of ..... (name of town)?*

*Yes .....*

*No .....*

*The voter shall mark the ballot by placing a cross (x) next to the word "yes" or "no."*

2. *Contain a statement of the services to be provided ~~for~~ ~~or arranged for~~ by the incorporated town, as selected by the committee pursuant to section 7 of this act.*

3. *Contain the statement of the estimated fiscal effect of the proposed incorporation prepared pursuant to section 16 of this act.*

4. *Contain a copy of the map or plat that was submitted with the petition pursuant to section 8 of this act and depicts the existing streets, sewer interceptors and outfalls and their proposed extensions.*

Sec. 25. 1. *At least 10 days before an election held pursuant to section 22 of this act, the county clerk or registrar of voters shall cause to be mailed to each qualified elector a sample ballot for his precinct with a notice informing the elector of the location of his polling place.*

2. *The sample ballot must:*

(a) *Be in the form required by section 24 of this act.*

(b) *Include the information required by section 24 of this act.*

(c) *Except as otherwise provided in subsection 3, be printed in at least 12-point type.*

(d) *Describe the area proposed to be incorporated by assessor's parcel maps, existing boundaries of subdivision or parcel maps, identifying visible ground features, extensions of the visible ground features, or by any boundary that coincides with the official boundary of the state, a county, a city, an incorporated town, a township, a section or any combination thereof.*

(e) *Contain a copy of the map or plat that was submitted with the petition pursuant to section 8 of this act and depicts the existing dedicated streets, sewer interceptors and outfalls and their proposed extensions.*

(f) *Include on the front page, in a separate box created by bold lines, a notice printed in at least 20-point bold type that states:*

**NOTICE: TO RECEIVE A SAMPLE BALLOT IN  
LARGE TYPE, CALL (Insert appropriate telephone number)**

3. *A portion of a sample ballot that contains a facsimile of the display area of a voting device may include material in less than 12-point type to the extent necessary to make the facsimile fit on the pages of the sample ballot.*

4. *The sample ballot mailed to a person who requests a sample ballot in large type by exercising the option provided pursuant to NRS 293.508, or in any other manner, must be printed in at least 14-point type, or larger when practicable.*

5. *If a person requests a sample ballot in large type, the county clerk shall ensure that all future sample ballots mailed to that person from the county are in large type.*

Sec. 26. 1. *The board of county commissioners shall canvass the votes in the same manner as votes are canvassed in a general election. Upon the completion of the canvass, the board shall immediately notify the county clerk of the result, which must be determined in accordance with subsection 2 of section 22 of this act.*

2. *The county clerk shall immediately, upon receiving notice of the canvass from the board of county commissioners, cause to be published a notice of the results of the election in a newspaper of general circulation in the county. The county clerk shall file a copy of the notice with the secretary of state.*

Sec. 27. *Upon approval of the incorporation by the voters, the board of county commissioners shall authorize a professional land surveyor licensed pursuant to chapter 625 of NRS to prepare a legal description of the area of the incorporated town by metes and bounds and courses and distances. The cost of the survey is a charge against the incorporated town.*

**Sec. 28. 1. The costs incurred by the board of county commissioners in carrying out the provisions relating to the incorporation, including the costs incurred in certifying the petition, publishing the notices, requesting the report pursuant to section 14 of this act, conducting the public hearing and election, including the cost of mailing the sample ballots, and any appeal pursuant to section 18 of this act are a charge against the county if the proposed incorporation is not submitted to the voters or the incorporation is disapproved by the voters, and a charge against the incorporated town if the incorporation is approved by the voters.**

**2. The costs incurred by the incorporators in carrying out the provisions relating to the incorporation, including the costs incurred in preparation of the petition for incorporation, preparation of the descriptions and map of the area proposed to be incorporated and circulation of the petition are chargeable to the incorporated town if the incorporation is approved by the voters.**

**Sec. 29. 1. Upon approval of the incorporation by the voters, the board of county commissioners shall designate a date on which an election to elect the officers of the incorporated town will be held. The election must be held not less than 60 days nor more than 120 days after the election conducted pursuant to section 22 of this act.**

**2. The county clerk shall publish or cause to be published notice of the election in a newspaper of general circulation in the incorporated town. The notice must be published once each week for 3 consecutive weeks. If no newspaper of general circulation is published in the town, the county clerk shall post the notice in at least five public places in the town.**

**Sec. 30. A petition for incorporation must not be circulated for signatures or considered by the board of county commissioners for ~~1 year~~ 2 years after the date on which:**

- 1. A final determination of its insufficiency is made;**
- 2. An election is held in which the proposed incorporation of the area is rejected by the voters;**
- 3. A notice of withdrawal of a petition is filed with the county clerk pursuant to section 23 of this act; or**
- 4. A final disposition is made on a petition for incorporation which was previously filed with the county clerk if that petition included any area which is also included in the petition proposed to be circulated ~~1~~, whichever occurs later.**

**Sec. 31. A person who wishes to become a candidate for an elective office of a newly created incorporated town must:**

- 1. Reside within the boundaries of the newly created incorporated town; and**
- 2. File a declaration of candidacy with the county clerk not less than 30 days nor more than 90 days before the date of the election.**

**Sec. 32. 1. The mayor of the incorporated town shall file three copies of the articles of incorporation of the town with the secretary of state.**

**2. The articles of incorporation must be signed and verified by the mayor and include the name of the incorporated town and a description of its location.**

**3. The secretary of state shall certify the articles of incorporation upon receipt and send one copy to the county clerk of the county in which the incorporated town is located and one copy to the mayor of the incorporated town. The secretary of state shall retain a copy for his records and furnish a certified copy to any person who requests a copy upon payment of a reasonable fee as determined by the secretary of state.**

Sec. 33. *Before the incorporation of the town becomes effective, the elected officers of the incorporated town may:*

- 1. Prepare and adopt a budget;*
- 2. Adopt ordinances, including an ordinance fixing the salaries of the officers first elected or appointed for the incorporated town, including those officers who enact and sign the ordinance;*
- 3. Levy a tax ad valorem on property within the area of the incorporated town, at the time and in the amount prescribed by law for incorporated towns, for the fiscal year beginning on the date the incorporation of the town becomes effective;*
- 4. Negotiate an equitable apportionment of the fixed assets of the county pursuant to section 36 of this act;*
- 5. Negotiate contracts for the employment of personnel;*
- 6. Negotiate contracts to provide services for the incorporated town, including those services provided for by chapter 277 of NRS; and*
- 7. Negotiate contracts for the purchase of equipment, materials and supplies.*

Sec. 34. *1. The incorporation of a town becomes effective:*

*(a) If the election held pursuant to section 29 of this act is held on or before the 1st Tuesday after the 1st Monday of November, on July 1 of the year next following the election; or*

*(b) If the election held pursuant to section 29 of this act is held after the 1st Tuesday after the 1st Monday of November, 1 year after July 1 of the year next following the election.*

*2. A town which levies and collects a tax ad valorem on property for at least 2 years after its incorporation ~~{and whose existence as an incorporated town has not been challenged in the district court for the county in which the town is located,}~~ is conclusively presumed to be a lawfully existing incorporated town.*

Sec. 35. *1. During the period from the filing of the notice of the results of the election by the county clerk pursuant to section 26 of this act until the date the incorporation of the town becomes effective, the county is entitled to receive the taxes and other revenue from the incorporated town and shall continue to provide services to the incorporated town.*

*2. Except as otherwise provided in NRS 318.492, all special districts located within the boundaries of an incorporated town continue to exist within that town after the incorporation becomes effective.*

Sec. 36. *1. The governing body of the incorporated town and the board of county commissioners of the county in which the incorporated town is located shall, before the date the incorporation becomes effective or within 90 days thereafter, equitably apportion ~~{those fixed assets}~~ the real property and fixtures of the county which are located within the boundaries of the incorporated town. The governing bodies shall consider the location, use and types of ~~{assets}~~ real property and fixtures in determining an equitable apportionment between the county and the incorporated town.*

*2. Any real property and ~~{its appurtenances}~~ fixtures located within the incorporated town and not required for the efficient operation of the county's duties must first be applied toward the town's share of the ~~{assets}~~ real property and fixtures of the county. Any real property or fixtures which ~~{is}~~ are required by the county for the efficient operation of its duties must not be transferred to the incorporated town.*

3. *If an agreement to apportion the ~~{assets}~~ real property and fixtures of the county is not reached within 90 days after the incorporation of the town, the matter may be submitted to arbitration upon the motion of either party.*

4. *Any appeal of the arbitration award must be filed with the district court within 30 days after the award is granted.*

Sec. 37. *Any property located within an incorporated town which was assessed and taxed by the county before incorporation must continue to be assessed and taxed to pay for the indebtedness incurred by the county before incorporation.*

Sec. 38. *Whenever the inhabitants of any territory become incorporated under this chapter, the officers required by section 69 of this act to give bonds shall do so in the penal sum of not less than \$500, such bonds to remain in force until the passage of ordinances or resolutions by the town council providing for the giving of bonds by such officers.*

Sec. 39. 1. *Towns 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, towns 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.*

- WARDS -

Sec. 40. 1. *In a town incorporated pursuant to this chapter, the town may be divided into wards by ordinance as follows:*

(a) *A town whose population is less than 5,000, into three wards.*

(b) *A town whose population is 5,000 or more, into five wards.*

2. *The division of towns into wards must, during the incorporation thereof, be made by the board of county commissioners. The wards must as nearly as practicable be of equal population and in compact form.*

3. *Once established, the boundaries of wards must be changed by ordinance of the town council whenever, as determined at the close of registration before each general election, the number of registered voters in any ward exceeds the number of registered voters in any other ward by more than 5 percent.*

- ORDINANCES AND RESOLUTIONS -

Sec. 41. 1. *Except as otherwise provided in this section, the town council may make and pass all ordinances, resolutions and orders, not repugnant to the Constitutions of the United States or of the State of Nevada or to the provisions of this chapter, necessary for the municipal government and the management of the town affairs, for the execution of all powers vested in the town, and for making effective the provisions of this chapter.*

2. *The town council may provide for fines or penalties to enforce such ordinances, not to exceed those provided for by law for misdemeanors.*

3. *Except with respect to matters related to the internal administrative functions of the incorporated town, the town council shall not adopt, repeal or amend an ordinance, resolution or order unless the ordinance, resolution or order pertains to a service provided ~~for~~ ~~for~~ by the incorporated town.*



4. ~~{The town council shall not adopt, repeal or amend an ordinance, resolution or order concerning a criminal offense.}~~ If an incorporated town has elected to provide the service of zoning and land use planning, any requirements imposed by the town council regarding matters of zoning and land use planning must be at least as restrictive as the zoning and land use planning requirements of the county in which the incorporated town is located. The board of county commissioners of the county in which the incorporated town is located has the final authority in determining whether a given requirement is at least as restrictive as the corresponding requirement imposed by the county. (Also recommended by Carole Vilardo/Nevada Taxpayers' Association)

Sec. 42. 1. No ordinance shall be passed except by bill, and when any ordinance is amended, the section or sections thereof shall be reenacted as amended.

2. Every ordinance, except those revising the town ordinances, shall embrace but one subject and matters necessarily connected therewith and pertaining thereto; and the subject shall be clearly indicated in the title, and in all cases where the subject of the ordinance is not so expressed in the title, the ordinance shall be void as to the matter not expressed in the title.

Sec. 43. 1. The style of ordinances must be as follows: "The Town Council of the Town of ..... do ordain." All proposed ordinances, when first proposed, must be read by title to the town council and may be referred to a committee of any number of the members of the council for consideration, after which an adequate number of copies of the ordinance must be deposited with the town clerk for public examination and distribution upon request. Notice of the deposit of the copies, together with an adequate summary of the ordinance, must be published once in a newspaper published in the town, if any, otherwise in some newspaper published in the county which has a general circulation in the town, at least 10 days before the adoption of the ordinance. At any meeting at which final action on the ordinance is considered, at least one copy of the ordinance must be available for public examination. The town council shall adopt or reject the ordinance, or the ordinance as amended, within 30 days after the date of publication, except that in cases of emergency, by unanimous consent of the whole council, final action may be taken immediately or at a special meeting called for that purpose.

2. At the next regular or adjourned meeting of the council following the proposal of an ordinance and its reference to committee, the committee shall report the ordinance back to the council, and thereafter it must be read by title and summary or in full as first introduced, or if amended, as amended, and thereupon the proposed ordinance must be finally voted upon or action on it postponed.

3. After final adoption the ordinance must be signed by the mayor, and, together with the votes cast on it, must be:

(a) Published by title, together with an adequate summary including any amendments, once in a newspaper published in the town, if any, otherwise in a newspaper published in the county and having a general circulation in the town; and

(b) Posted in full in the town hall.

The ordinance must go into effect 20 days after its publication, except emergency ordinances which may be effective immediately.

- THE MAYOR -

Sec. 44. The chief executive of an incorporated town is the mayor.

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**Sec. 45.** *Mayors must be qualified electors within their respective incorporated towns and must have been actually bona fide residents thereof for a period of at least 1 year next preceding their election.*

**Sec. 46.** *Mayors must be chosen by the qualified electors of their respective incorporated towns.*

**Sec. 47.** *Any vacancy occurring in the office of mayor, by death, resignation, removal or otherwise, shall be filled by the town council at the first regular meeting after such vacancy, when the council shall by a majority vote elect some competent person who shall hold the office until the election of his successor at the next general town election, and his qualification.*

**Sec. 48.** *1. During the absence or disability of the mayor, the town council shall, by ordinance or resolution, provide for the appointment of one of its members as mayor pro tem.*

*2. During the absence or disability of the mayor, the mayor pro tem shall:*

*(a) Possess the powers and duties of mayor; and*

*(b) Hold the office of mayor pro tem at the pleasure of the town council.*

**Sec. 49.** *1. The mayor shall exercise a careful supervision over the general affairs of the town.*

*2. In exercising his duty of supervision pursuant to subsection 1, the mayor shall:*

*(a) From time to time, give the town council information in writing relative to the state of the town, and recommend such measures as he may deem beneficial to the town.*

*(b) See that all the general laws and ordinances of the town are observed and enforced.*

*(c) Take all proper measures for the preservation of public peace and order, and the suppression of riots, tumults and all forms of public disturbances. If local law enforcement forces are inadequate, he shall call upon the governor for military aid in the manner provided by law.*

*(d) Sign all licenses and warrants and claims against the town.*

*(e) See that all contracts are fully kept and faithfully performed, and, to that end and in any such case where necessary or proper to protect the interests of the town, shall cause legal proceedings to be instituted or defended at the expense of the town.*

*(f) Perform such other duties as the town council may prescribe by ordinance.*

**Sec. 50.** *1. The mayor:*

*(a) Shall preside over the town council when in session, and shall preserve order and decorum among the members and enforce the rules of the town council and determine the order of business, subject to those rules and appeal to the town council, or as provided by ordinance.*

*(b) Is not entitled to a vote except in case of a tie, when the mayor has a casting vote, except as otherwise provided in this chapter.*

*2. The mayor may exercise the right of veto upon all matters passed by the town council. To pass any matter receiving the mayor's veto requires a four-fifths vote of a town council composed of five members, and a unanimous vote of a town council composed of three members.*

*3. No resolution or contract requiring the payment of money nor any ordinance may go into force or have any effect until approved in writing by the mayor, unless passed over the mayor's veto. If the mayor does not approve the resolution, contract or ordinance so submitted, he shall, within 5 days after the receipt thereof, return it to the town clerk with his reasons in writing for not approving it. If the mayor does not so return it, the resolution or*

*contract thereupon goes into effect and the ordinance becomes a law, in like manner and with the same effect as if it had been approved by the mayor.*

**- TOWN COUNCIL -**

**Sec. 51. Councilmen must be:**

*1. Qualified electors within their respective incorporated towns and bona fide residents thereof for a period of at least 1 year next preceding their election.*

*2. Except as otherwise provided in section 52 of this act, qualified electors within their respective wards.*

**Sec. 52. 1. If an incorporated town whose population is less than 5,000 is:**

*(a) Divided into wards, the town council must be composed of three councilmen with one councilman from each ward who is elected only by the electors who reside in that ward.*

*(b) Not divided into wards, three councilmen must be elected by the voters of the town at large.*

**2. If an incorporated town whose population is 5,000 or more is:**

*(a) Divided into wards, the town council must be composed of five councilmen with one councilman from each ward who is elected only by the electors who reside in that ward.*

*(b) Not divided into wards, five councilmen must be elected by the voters of the town at large.*

**Sec. 53. Any vacancy occurring in the office of councilman by death, resignation, removal or otherwise must be filled by the mayor and town council at the first regular meeting after the vacancy, when the council and the mayor, who has the same voting power thereon as a councilman, shall by a majority vote elect some person possessing the requisite qualifications, who shall hold the office until the election and qualification of his successor at the next general town election.**

**Sec. 54. A member of a town council shall not, during the term for which he was elected and for 1 year after the expiration of that term, hold or be appointed to any office which was created, or the salary or emoluments of which were increased, while he was a member of the town council.**

**Sec. 55. Except as otherwise provided in NRS 241.0355, a majority of all members of the town council constitutes a quorum to do business, but fewer members may meet and adjourn from time to time and may compel the attendance of absentees under such penalties as may be prescribed by ordinance.**

**Sec. 56. The town council shall determine its own rules of procedure, may punish its members for disorderly conduct, and, with the concurrence of two-thirds of the members of the town council, may expel a member for cause.**

**Sec. 57. 1. The town council shall prescribe by ordinance the time and place of holding its meetings, but at least one meeting must be held each month.**

**2. All meetings of a town council must be conducted in accordance with the provisions of chapter 241 of NRS.**

**Sec. 58. 1. ~~{The}~~ Except as otherwise authorized pursuant to chapter 241 of NRS, the deliberations, sessions and proceedings of the town council must be public.**

**2. The town council shall keep written minutes of its own proceedings as required pursuant to NRS 241.035. The yeas and nays must be taken:**

*(a) Upon the passage of all ordinances;*

*(b) Upon the passage of any proposition to create any liability against the town; and*

*(c) In all other cases at the request of any member of the town council or of the mayor.*

*The yeas and nays must be entered in the minutes of the proceedings of the town council.*

*3. The affirmative vote of a majority of all the members elected to the town council is necessary to pass:*

*(a) Any ordinance.*

*(b) Any proposition to create any liability against the town.*

*Sec. 59. At the request of any two members of the town council in incorporated towns with councils composed of five members, or at the request of one member in incorporated towns with councils composed of three members, final action on any report of a committee of the town council must be deferred to the next regular meeting of the town council after the report is made.*

#### **- SERVICES; POWERS -**

*Sec. 60. 1. An incorporated town must, at all times, provide ~~for or arrange for the provision of~~ at least four of the following services:*

*(a) Police protection.*

*(b) Fire protection.*

*(c) Zoning and land use planning, including the enforcement of ordinances and other requirements relating thereto.*

*(d) Construction, maintenance and repair of roads.*

*(e) Water and sewer services.*

*(f) Garbage collection.*

*(g) Emergency medical services.*

*(h) Parks and recreation.*

*2. Except as otherwise provided in this ~~subsection,~~ section, each incorporated town is limited to those services whose supply provided the basis for the incorporation of the town, as identified and selected pursuant to section 7 of this act. ~~The town council may, by ordinance, amend the list of services to be provided or arranged for by the incorporated town, but in~~ In no case may the services provided ~~for or arranged for~~ by the incorporated town consist of fewer than four of the services described in subsection 1.*

*3. ~~An incorporated town arranges for a service when it enters into an agreement pursuant to chapter 277 of NRS to have another local government provide that service to the incorporated town.~~ Subject to the minimum number of services required pursuant to subsection 2, the town council may, by ordinance and in accordance with this subsection, alter the list of services provided by the incorporated town. Before altering the list of services provided by the incorporated town, the town council, in cooperation with the board of county commissioners:*

*(a) Shall submit the proposed alteration to a vote of the residents of the incorporated town; and*

*(b) Shall not proceed with the proposed alteration unless a majority of the residents voting upon the matter vote in favor of the proposed alteration.*

*An election held for the purposes described in this subsection must be conducted, insofar as is practicable, in the same manner as the election held for the initial incorporation of the town.*

*Sec. 61. 1. Except as otherwise provided in this section, the town council, on behalf of the incorporated town and in its name, without any election, may take such actions as it deems necessary or useful to ~~the~~*

*~~(a) Provide or arrange for; and~~*

~~—(b) Administer,} provide and administer the services required pursuant to section 60 of this act.~~

2. *The provisions of this section do not authorize the town council of an incorporated town to levy, impose or collect any tax or assessment that the town council is not otherwise authorized to levy, impose or collect pursuant to the laws of this state.*

Sec. 62. *When power is conferred upon the town council of an incorporated town to do and perform any act or thing, and the manner of exercising the same is not specifically pointed out, the town council may provide by ordinance the manner and details necessary for the full exercise of such power.*

Sec. 63. 1. *The town council of an incorporated town may by ordinance, in accordance with the provisions of NRS 354.470 to 354.626, inclusive, levy an ad valorem tax upon all taxable property in the incorporated town.*

2. *Any proceeds received from the levy of the tax authorized pursuant to subsection 1 must be used to pay for the:*

- (a) Services required pursuant to section 60 of this act; and*
- (b) Organization and current expense of the incorporated town, including, without limitation, salaries and wages of officers and employees and other proper incidental expenditures.*

#### **- OFFICERS GENERALLY -**

Sec. 64. *The town council of an incorporated town may:*

- 1. *Create any office that may be deemed necessary for the town.*
- 2. *Provide for filling all vacancies in elective and appointive offices.*
- 3. *Regulate and prescribe the powers, duties and compensation of all officers of the town, except as otherwise provided by law.*
- 4. *Require all officers or employees of the town responsible for the handling of town money to give bond and security, to be paid by the town from its money, for the faithful performance of their duties.*
- 5. *Require from every officer of the town at any time a report in detail of all transactions in his office, or any matters connected therewith.*

Sec. 65. *The mayor of an incorporated town, with the advice and consent of the town council, shall appoint all such officers as may be provided for by law or ordinance.*

Sec. 66. 1. *The town council of an incorporated town, by ordinance, may require that the person appointed reside actually, and not constructively, within:*

- (a) The limits of the town; or*
  - (b) The county in which the town is located.*
2. *A person who is a defaulter to the town is ineligible to hold any town office.*

Sec. 67. 1. *In addition to the mayor and town council, there must be in each incorporated town a town clerk and a town treasurer, or if those offices are combined pursuant to subsection 3, a town clerk and treasurer. The offices of town clerk and town treasurer may be either elective or appointive offices, as provided by town ordinance. All elected officers shall hold their respective offices for 4 years and until their successors are elected and qualified. The terms of office of the members of the town council must be staggered.*

2. *The mayor, with the advice and consent of the town council, may appoint any officers as may be deemed expedient.*

3. *The town council may provide by ordinance for the office of town clerk and the office of town treasurer to be combined into the office of town clerk and treasurer.*

4. *The office of the mayor and the offices of all other officers of the incorporated town must be open for the transaction of business at least from 8 a.m. until 12 p.m. and from 1 p.m. until 5 p.m. every day of the year, with the exception of Saturdays, Sundays and legal holidays.*

Sec. 68. *Except as otherwise provided by specific law or ordinance, all appointed officers serve at the pleasure of the mayor and town council and may be removed by a majority vote of the town council. The mayor may exercise the right of veto as provided in section 50 of this act.*

Sec. 69. 1. *Every officer of an incorporated town, whether elected or appointed, shall, before he enters upon the duties of his office take and subscribe to the constitutional oath of office.*

2. *Every officer of an incorporated town who is responsible for the handling of town funds shall execute a bond payable to the town in such penal sum as may, by resolution or ordinance, be directed, conditioned for the faithful performance of the duties of his office, and the payment of all moneys received by such officer according to law and the ordinances of the town.*

Sec. 70. 1. *All bonds given by the officers of an incorporated town must be filed with the town clerk.*

2. *The town council may at any time require further and additional bonds of all officers elected and appointed.*

Sec. 71. *If the mayor or any municipal officer of an incorporated town is adjudged guilty of nonfeasance, misfeasance or malfeasance by any court of competent jurisdiction, he must be fined in a sum not exceeding \$1,000. The court in which such conviction is had shall enter an order removing such officer from office and the officer is not eligible to any municipal office thereafter.*

Sec. 72. *Every officer of an incorporated town shall, within 5 days after notification and request, deliver to his successor in office all properties, books and effects of every description in his possession belonging to the town or appertaining to his office. If an officer fails, refuses or neglects to do so he is liable for all damages caused thereby, and to such penalty as may be by ordinance prescribed.*

Sec. 73. *All elected officers of an incorporated town are entitled to receive such compensation as may be fixed by ordinance, but, except as otherwise provided in section 33 of this act, the compensation of any elected officers must not be increased or diminished to take effect during the term for which the officer was elected. All appointed officers are entitled to receive such compensation as may be fixed by ordinance.*

Sec. 74. *The duties, powers and privileges of all officers in any way connected with the government of an incorporated town, not defined in this chapter, shall be defined by the town council. The defining by this chapter of the duties of town officers does not preclude the town council from defining by ordinance further and additional duties to be performed by any such officer.*

#### **- TOWN CLERK -**

Sec. 75. *The town clerk of an incorporated town shall:*

1. *Keep his office at the place of meeting of the town council, or some other place convenient thereto, as the council may direct.*

2. *Keep the corporate seal and all papers and records of the town.*

3. *Keep a record of the proceedings of the town council, whose meetings he shall attend.*
4. *Countersign all contracts made in behalf of the town, and every such contract or contracts to which the town is a party are void unless signed by the town clerk.*
5. *Cause to be published quarterly in some newspaper published in the town a statement of the finances of the town, showing receipts and disbursements, and bills allowed and paid. The statement must be signed by the mayor and attested by the town clerk. If there is no newspaper published in the incorporated town, the financial statement must be published in a newspaper of general circulation in the county.*

**- TOWN TREASURER -**

*Sec. 76. The town treasurer of an incorporated town shall perform such duties as may be designated by ordinance.*

*Sec. 77. All warrants must be paid out of their respective funds in the order in which they will be issued.*

*Sec. 78. The town treasurer of an incorporated town shall:*

1. *Give to every person paying money into the town treasury a receipt therefor, specifying the date of payment and upon what account paid.*

2. *File the duplicate of such receipt with the town clerk, at the date of his monthly report.*

*Sec. 79. 1. The town treasurer of an incorporated town ~~to~~ or the county treasurer when acting as ex-officio town treasurer, shall keep all money belonging to the town separate from all other money held by him for any other purpose or fund and may, when one or more insured banks, credit unions or savings and loan associations are located in the town, deposit, with unanimous consent of his bondsmen, town money in such banks, credit unions or savings and loan associations in demand or time accounts. When no such banks, credit unions or savings and loan associations exist in the town, he may deposit, with the unanimous consent of his bondsmen, town money with any insured bank, credit union or savings and loan association in the State of Nevada in demand or time accounts.*

2. *The accounts must be kept in the name of the town in such manner as the governing board of the town may prescribe and under such terms and conditions for the protection of the money as the governing board may determine, not inconsistent with other laws of the State of Nevada regulating the deposit of public money.*

3. *The balances in banks, credit unions or savings and loan associations, as certified to by the proper officer thereof, and by the oath of the town treasurer, may be counted as cash.*

*Sec. 80. The town treasurer of an incorporated town shall report to the town council at such times as may be prescribed by ordinance, giving a full and detailed account of all receipts and expenditures since his last report, and of the state of the treasury. He shall also keep a register of all warrants redeemed and paid during the year, and describing such warrants, their date, amount, number, the fund from which paid, and the person to whom paid, specifying also the time of payment. All such warrants must be examined by the town council at the time of receiving the report.*

**- DISINCORPORATION -**

*Sec. 81. The provisions of NRS 265.110 to 265.180, inclusive, providing for disincorporation by petition of voters, govern the disincorporation of an incorporated town.*

*Sec. 82. NRS 265.010 is hereby amended to read as follows:*

*265.010 No city or town in this state may be organized into an incorporated city unless there were more than ~~1,000~~ 5,000 inhabitants residing within the limits of the city or town as*

determined by the last federal decennial census or the population certified by the governor pursuant to NRS 360.285, whichever is most recent, preceding the application for incorporation.

**Sec. 83.** NRS 277.100 is hereby amended to read as follows:

277.100 As used in NRS 277.080 to 277.180, inclusive, unless the context otherwise requires:

1. "Public agency" means:

(a) Any political subdivision of this state, including , without limitation , counties, incorporated cities and **incorporated** towns, including Carson City, unincorporated towns, school districts and other districts.

(b) Any agency of this state or of the United States.

(c) Any political subdivision of another state.

(d) Any Indian tribe, group of tribes, organized segment of a tribe, or any organization representing two or more such entities.

2. "State" includes any of the United States and the District of Columbia.

**Sec. 84.** NRS 277.103 is hereby amended to read as follows:

277.103 1. The governing bodies of a county, the largest city, and each other incorporated city **and incorporated town** which chooses to participate may consolidate the services provided by those governments, by interlocal agreement pursuant to the provisions of NRS 277.105.

2. The provisions of this section and NRS 277.105 supplement, and in case of conflict prevail over, the provisions of NRS 277.110 to 277.180, inclusive.

**Sec. 85.** NRS 277.105 is hereby amended to read as follows:

277.105 1. In a county in which governmental services are consolidated, the governing bodies may establish a permanent administrative entity to perform specific functions throughout the participating cities **and incorporated towns** and in the unincorporated area of the county, including, but not limited to:

(a) Prevention and suppression of fire.

(b) Sanitation and sewerage.

(c) Planning, regulation of use of land and buildings, inspection of buildings for safety, and the issuance of building permits.

(d) Regulation of business and gaming and issuance of business and gaming licenses.

(e) Provision of parks and recreation, including the maintenance of existing facilities.

(f) Provision of informational systems and data processing for the county and participating cities ~~+~~ **and incorporated towns**.

(g) General services and the maintenance of buildings and vehicles for the county and participating cities ~~+~~ **and incorporated towns**.

2. The county and each participating city **and incorporated town** may negotiate concerning the manner of contributing to the budget of the administrative entity in proportion to the sum of revenues derived by each from taxes, licenses for business and gaming, and fees for services performed, in each city **and incorporated town** and in the unincorporated area of the county, respectively.

**Sec. 86.** NRS 278.012 is hereby amended to read as follows:

278.012 "Cities and counties" means all counties and cities located in counties. Carson City is considered as a county. ***If a town incorporated pursuant to sections 4 to 37, inclusive, of this act elects to provide the service of zoning and land use planning, the incorporated town is considered as a city ~~+~~ for the limited purpose of exercising the powers set forth in this chapter.***



**Sec. 87.** NRS 278.015 is hereby amended to read as follows:

278.015 “Governing body” means ~~the~~ :

1. **The** city council or other legislative body of the city ~~for the~~ ;
2. **The town council of the incorporated town, if the incorporated town has elected to provide the service of zoning and land use planning;**
3. **The** board of county commissioners ~~for, in~~ **of the county; or**
4. **In** the case of Carson City, the board of supervisors.

**Sec. 88.** NRS 288.060 is hereby amended to read as follows:

288.060 “Local government employer” means any political subdivision of this state or any public or quasi-public corporation organized under the laws of this state and includes, without limitation, counties, cities, **incorporated towns**, unincorporated towns, school districts, charter schools, hospital districts, irrigation districts and other special districts.

**Sec. 89.** NRS 318.492 is hereby amended to read as follows:

318.492 1. If all the territory within a district organized pursuant to this chapter is included within the boundaries of a ~~city incorporated under~~ :

(a) **City incorporated pursuant to** the provisions of chapter 266 of NRS, the board of county commissioners of the county shall, within 90 days after the filing of the notice required by NRS 266.033, adopt an ordinance providing for the merger of the district with the city and fixing a time and place for a hearing on the merger.

(b) **Town incorporated pursuant to the provisions of sections 4 to 37, inclusive, of this act, the board of county commissioners of the county shall, within 90 days after the filing of the notice required by section 26 of this act, adopt an ordinance providing for the merger of the district with the town and fixing a time and place for a hearing on the merger.**

2. The county clerk shall certify a copy of the ordinance and give notice of its adoption in the manner provided by subsection 2 of NRS 318.490.

3. The board of county commissioners shall thereafter proceed to hear and determine the matter as provided in NRS 318.495 and 318.500.

**Sec. 90.** NRS 318.508 is hereby amended to read as follows:

318.508 If a final ordinance of dissolution is adopted pursuant to NRS 318.492:

1. The merger of the district is effective on July 1 of the year next following the date the incorporation of the city **or town, as applicable**, becomes effective.

2. The city **or town, as applicable**, shall assume the obligations and functions of the district.

3. Any outstanding and unpaid tax sale or levy and any special assessment lien of the district is valid and remains a lien upon the property against which it is assessed or levied until paid, subject to the limitations of liens provided by general law. Any tax or special assessment paid after the effective date of the merger must be placed in the general fund of the city ~~or~~ **or town, as applicable**.

4. The city council of the city **or the town council of the town, as applicable**, has the same power to enforce the collection of any special assessment or outstanding tax sales of the district as the district would have had if it had not been merged.

**Sec. 91.** NRS 332.015 is hereby amended to read as follows:

332.015 For the purpose of this chapter, unless the context otherwise requires, “local government” means:

1. Every political subdivision or other entity which has the right to levy or receive money from ad valorem taxes or other taxes or from any mandatory assessments, including counties, cities, towns, school districts and other districts organized pursuant to chapters 244, 309, 318,

379, 450, 473, 474, 539, 541, 543 and 555 of NRS ~~11~~, *and sections 2 to 81, inclusive, of this act.*

2. The Las Vegas Valley Water District created pursuant to the provisions of chapter 167, Statutes of Nevada 1947, as amended.

3. County fair and recreation boards and convention authorities created pursuant to the provisions of NRS 244A.597 to 244A.667, inclusive.

4. District boards of health created pursuant to the provisions of NRS 439.370 to 439.410, inclusive.

5. The Nevada rural housing authority.

**Sec. 92.** NRS 338.010 is hereby amended to read as follows:

338.010 As used in this chapter:

1. "Day labor" means all cases where public bodies, their officers, agents or employees, hire, supervise and pay the wages thereof directly to a workman or workmen employed by them on public works by the day and not under a contract in writing.

2. "Design-build contract" means a contract between a public body and a design-build team in which the design-build team agrees to design and construct a public work.

3. "Design-build team" means an entity that consists of:

(a) At least one person who is licensed as a general engineering contractor or a general building contractor pursuant to chapter 624 of NRS; and

(b) For a public work that consists of:

(1) A building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS.

(2) Anything other than a building and its site, at least one person who holds a certificate of registration to practice architecture pursuant to chapter 623 of NRS or is licensed as a professional engineer pursuant to chapter 625 of NRS.

4. "Design professional" means:

(a) A person who is licensed as a professional engineer pursuant to chapter 625 of NRS;

(b) A person who is licensed as a professional land surveyor pursuant to chapter 625 of NRS;

(c) A person who holds a certificate of registration to engage in the practice of architecture pursuant to chapter 623 of NRS;

(d) A person who holds a certificate of registration to engage in the practice of landscape architecture pursuant to chapter 623A of NRS; or

(e) A business entity that engages in the practice of professional engineering, land surveying, architecture or landscape architecture.

5. "Eligible bidder" means a person who is:

(a) Found to be a responsible and responsive contractor by a local government which requests bids for a public work in accordance with paragraph (b) of subsection 1 of NRS 338.1373; or

(b) Determined by a public body which awarded a contract for a public work pursuant to NRS 338.1375 to 338.139, inclusive, to be qualified to bid on that contract pursuant to NRS 338.1379 or was exempt from meeting such qualifications pursuant to NRS 338.1383.

6. "General contractor" means a person who is licensed to conduct business in one, or both, of the following branches of the contracting business:

(a) General engineering contracting, as described in subsection 2 of NRS 624.215.

(b) General building contracting, as described in subsection 3 of NRS 624.215.

7. "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and

includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, ***sections 2 to 81, inclusive, of this act***, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.

8. "Offense" means failing to:

(a) Pay the prevailing wage required pursuant to this chapter;  
(b) Pay the contributions for unemployment compensation required pursuant to chapter 612 of NRS;

(c) Provide and secure compensation for employees required pursuant to chapters 616A to 617, inclusive, of NRS.; or

(d) Comply with subsection 4 or 5 of NRS 338.070.

9. "Prime contractor" means a person who:

(a) Contracts to construct an entire project;  
(b) Coordinates all work performed on the entire project;  
(c) Uses his own work force to perform all or a part of the construction, repair or reconstruction of the project; and  
(d) Contracts for the services of any subcontractor or independent contractor or is responsible for payment to any contracted subcontractors or independent contractors.

The term includes, without limitation, a general contractor or a specialty contractor who is authorized to bid on a project pursuant to NRS 338.139 or 338.148.

10. "Public body" means the state, county, city, town, school district or any public agency of this state or its political subdivisions sponsoring or financing a public work.

11. "Public work" means any project for the new construction, repair or reconstruction of:

(a) A project financed in whole or in part from public money for:

- (1) Public buildings;
- (2) Jails and prisons;
- (3) Public roads;
- (4) Public highways;
- (5) Public streets and alleys;
- (6) Public utilities which are financed in whole or in part by public money;
- (7) Publicly owned water mains and sewers;
- (8) Public parks and playgrounds;
- (9) Public convention facilities which are financed at least in part with public funds; and
- (10) All other publicly owned works and property whose cost as a whole exceeds \$20,000.

Each separate unit that is a part of a project is included in the cost of the project to determine whether a project meets that threshold.

(b) A building for the University and Community College System of Nevada of which 25 percent or more of the costs of the building as a whole are paid from money appropriated by this state or from federal money.

12. "Specialty contractor" means a person who is licensed to conduct business as described in subsection 4 of NRS 624.215.

13. "Stand-alone underground utility project" means an underground utility project that is not integrated into a larger project, including, without limitation:

(a) An underground sewer line or an underground pipeline for the conveyance of water, including facilities appurtenant thereto; and

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(b) A project for the construction or installation of a storm drain, including facilities appurtenant thereto, that is not located at the site of a public work for the design and construction of which a public body is authorized to contract with a design-build team pursuant to subsection 2 of NRS 338.1711.

14. "Wages" means:

(a) The basic hourly rate of pay; and  
(b) The amount of pension, health and welfare, vacation and holiday pay, the cost of apprenticeship training or other similar programs or other bona fide fringe benefits which are a benefit to the workman.

15. "Workman" means a skilled mechanic, skilled workman, semiskilled mechanic, semiskilled workman or unskilled workman. The term does not include a design professional.

**Sec. 93.** NRS 354.474 is hereby amended to read as follows:

354.474 1. Except as otherwise provided in subsections 2 and 3, the provisions of NRS 354.470 to 354.626, inclusive, apply to all local governments. For the purpose of NRS 354.470 to 354.626, inclusive:

(a) "Local government" means every political subdivision or other entity which has the right to levy or receive money from ad valorem or other taxes or any mandatory assessments, and includes, without limitation, counties, cities, towns, boards, school districts and other districts organized pursuant to chapters 244A, 309, 318, 379, 474, 541, 543 and 555 of NRS, NRS 450.550 to 450.750, inclusive, and any agency or department of a county or city which prepares a budget separate from that of the parent political subdivision.

(b) "Local government" does not include the Nevada rural housing authority.

2. An irrigation district organized pursuant to chapter 539 of NRS shall fix rates and levy assessments as provided in NRS 539.667 to 539.683, inclusive. The levy of such assessments and the posting and publication of claims and annual financial statements as required by chapter 539 of NRS shall be deemed compliance with the budgeting, filing and publication requirements of NRS 354.470 to 354.626, inclusive, but any such irrigation district which levies an ad valorem tax shall comply with the filing and publication requirements of NRS 354.470 to 354.626, inclusive, in addition to the requirements of chapter 539 of NRS.

3. An electric light and power district created pursuant to chapter 318 of NRS shall be deemed to have fulfilled the requirements of NRS 354.470 to 354.626, inclusive, for a year in which the district does not issue bonds or levy an assessment if the district files with the department of taxation a copy of all documents relating to its budget for that year which the district submitted to the Rural Electrification Administration of the United States Department of Agriculture.

**4. As used in this section, "town" includes a town incorporated pursuant to sections 4 to 37, inclusive, of this act.**

**Sec. 94.** NRS 354.59821 is hereby amended to read as follows:

354.59821 1. The committee on local government finance shall annually provide to each city clerk, ***town clerk***, county clerk and district attorney:

(a) Forms for submitting a ballot question to the registered voters of a local government for the imposition of an additional property tax pursuant to NRS 354.5982; and

(b) Examples of past ballot questions for the imposition of an additional property tax.

2. The city clerk, ***town clerk***, county clerk or district attorney may make these forms and examples available to the general public.

**Sec. 95.** Chapter 360 of NRS is hereby amended by adding thereto a new section to read as follows:

***“Town” includes a town incorporated pursuant to sections 4 to 37, inclusive, of this act.***

**Sec. 96.** NRS 360.600 is hereby amended to read as follows:

360.600 As used in NRS 360.600 to 360.740, inclusive, ***and section 95 of this act***, unless the context otherwise requires, the words and terms defined in NRS 360.605 to 360.650, inclusive, ***and section 95 of this act***, have the meanings ascribed to them in those sections.

**Sec. 97.** 1. The Committee on Local Government Finance, created pursuant to NRS 354.105, shall conduct a study to examine prospectively the expected operation of this act and the expected feasibility of towns incorporated pursuant to this act.

2. The study required pursuant to subsection 1 must include the creation of models to forecast and simulate the creation and operation of:

(a) A town that is incorporated, in whole or in part, through the absorption of a large general improvement district; and

(b) A town that is incorporated, in whole or in part, through the absorption of a large unincorporated town which is located in a county whose population is less than 100,000.

3. The Committee on Local Government Finance shall, not later than February 1, 2005, submit a report of its findings to the:

(a) Senate Standing Committee on Government Affairs; and

(b) Assembly Standing Committee on Government Affairs.

4. For the purposes of this section, the Committee on Local Government Finance shall define the terms “large general improvement district” and “large unincorporated town.”

**Sec. 98.** 1. This section and section 97 of this act become effective upon passage and approval.

2. Sections 1 to 96, inclusive, of this act become effective on July 1, 2005.