

**Carson City
Agenda Report**

Date Submitted: March 6, 2012

Agenda Date Requested: March 15, 2012

Time Requested: 20 mins

To: Board of Supervisors

From: Larry Werner, City Manager

Subject Title: Presentation of Continuity in Government (COG) by Wes Henderson, Deputy Director of Nevada Association of Counties (NACO).

Staff Summary: Wes Henderson of NACO will make a presentation on Continuity of Government - the ability of a governing body to continue to function during and after an emergency.

Type of Action Requested: (check one)
 Resolution Ordinance
 Formal Action/Motion Other (Specify) Presentation Only

Does This Action Require A Business Impact Statement: Yes () No

Recommended Board Action: Presentation only

Explanation for Recommended Board Action: N/A

Applicable Statute, Code, Policy, Rule or Regulation: N/A

Fiscal Impact: N/A

Explanation of Impact: N/A

Funding Source: N/A

Alternatives: N/A

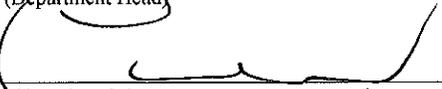
Supporting Material: Presentation materials and "Continuity of Government (COG)" Readiness Analysis Project report by NACo.

Prepared By: Janet Busse, Office Supervisor

Reviewed By: _____

Date: _____

(Department Head)



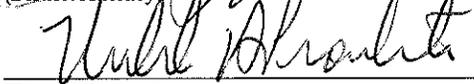
Date: 3/6/12

(City Manager)



Date: 3/6/12

(District Attorney)



Date: 3/6/12

(Finance Director)

Board Action Taken:

Motion: _____

1) _____

Aye/Nay

2) _____

(Vote Recorded By)



**COG – Continuity of Local
Governments in Nevada –
Are we Ready?**

cog *n.* 1. One of a series of teeth on the rim of a wheel that by engagement transmit motive force to a corresponding wheel. 2. A cogwheel. 3. A minor functionary in an organization.

Webster's II New College Dictionary, 1995, Houghton Mifflin Company, Boston - New York

COG *n.* Continuity of Government – the ability of a governing body to continue to function during and after and emergency.



Continuity of Local Government in Nevada – Are we Ready?

Formation of Local Governments in Nevada

Authorities of Local Governments

Responsibilities of Local Governments

Limits on Local Governments

What is an Emergency?

Special Procedures During Emergencies

What is Missing?

Next Steps



Local Governments in Nevada

Constitutional Provisions

Article 4 Sec: 25. **Uniform county and township government.** The Legislature shall establish a system of County and Township Government which shall be uniform throughout the State.

Sec: 26. **Boards of county commissioners: Election and duties.** The Legislature shall provide by law, for the election of a Board of County Commissioners in each County, and such County Commissioners shall jointly and individually perform such duties as may be prescribed by law.

Sec. 32. **County officers: Power of legislature; election, duties and compensation; duties of county clerks.** The Legislature shall have power to increase, diminish, consolidate or abolish the following county officers: County Clerks, County Recorders, Auditors, Sheriffs, District Attorneys and Public Administrators. The Legislature shall provide for their election by the people, and fix by law their duties and compensation. County Clerks shall be ex-officio Clerks of the Courts of Record and of the Boards of County Commissioners in and for their respective counties.



Local Governments in Nevada

Constitutional Provisions

Article 8 Section 8. **Municipal corporations formed under general laws.** 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.



Local Governments in Nevada

Constitutional Provisions

Article 4 Section 20. **Certain local and special laws prohibited.** The legislature shall not pass local or special laws in any of the following enumerated cases—that is to say:

Regulating the jurisdiction and duties of justices of the peace and of constables, and fixing their compensation;

For the punishment of crimes and misdemeanors;

Regulating the practice of courts of justice;

Providing for changing the venue in civil and criminal cases;

Granting divorces;

Changing the names of persons;

Vacating roads, town plots, streets, alleys, and public squares;

Summoning and impaneling grand and petit juries, and providing for their compensation;

Regulating county and township business;

Regulating the election of county and township officers;

For the assessment and collection of taxes for state, county, and township purposes;

Providing for opening and conducting elections of state, county, or township officers, and designating the places of voting;

Providing for the sale of real estate belonging to minors or other persons laboring under legal disabilities;

Giving effect to invalid deeds, wills, or other instruments;

Refunding money paid into the state treasury, or into the treasury of any county;

Releasing the indebtedness, liability, or obligation of any corporation, association, or person to the state, or to any county, town, or city of this state; but nothing in this section shall be construed to deny or restrict the power of the legislature to establish and regulate the compensation and fees of county officers, to authorize and empower the boards of county commissioners of the various counties of the state to establish and regulate the compensation and fees of township officers in their respective counties, to establish and regulate the rates of freight, passage, toll, and charges of railroads, tollroads, ditch, flume, and tunnel companies incorporated under the laws of this state or doing business therein.



Local Governments in Nevada

Constitutional Provisions

Article 4 Sec: 21. **General laws to have uniform application.** In all cases enumerated in the preceding section, and in all other cases where a general law can be made applicable, all laws shall be general and of uniform operation throughout the State.

[Sec. 36.] **Abolishment of county; approval of voters in county.** The legislature shall not abolish any county unless the qualified voters of the county affected shall at a general or special election first approve such proposed abolishment by a majority of all the voters voting at such election. The legislature shall provide by law the method of initiating and conducting such election.

Sec. 37[A]. **Consolidation of city and county containing seat of government into one municipal government; separate taxing districts.** Notwithstanding the general provisions of sections 20, 25, 26, and 36 of this article, the legislature may by law consolidate into one municipal government, with one set of officers, the city designated as the seat of government of this state and the county in which such city is situated. Such consolidated municipality shall be considered as a county for the purpose of representation in the legislature, shall have all the powers conferred upon counties by this constitution or by general law, and shall have such other powers as may be conferred by its charter. Notwithstanding the general provisions of section 1 of article 10, the legislature may create two or more separate taxing districts within such consolidated municipality.



Local Governments in Nevada

Statutory Provisions

TITLE 20—COUNTIES AND TOWNSHIPS: FORMATION, GOVERNMENT AND OFFICERS	
<u>Chapter 243</u>	Counties: Creation; Boundaries; Seats; Abolishment
<u>Chapter 244</u>	Counties: Government
<u>Chapter 244A</u>	Counties: Financing of Public Improvements
<u>Chapter 245</u>	Counties: Officers and Employees Generally
<u>Chapter 246</u>	County Clerks
<u>Chapter 247</u>	County Recorders
<u>Chapter 248</u>	Sheriffs
<u>Chapter 249</u>	County Treasurers
<u>Chapter 250</u>	County Assessors
<u>Chapter 251</u>	County Auditors and Comptrollers
<u>Chapter 252</u>	District Attorneys
<u>Chapter 253</u>	Public Administrators and Guardians
<u>Chapter 254</u>	County Engineers
<u>Chapter 255</u>	County Surveyors
<u>Chapter 257</u>	Townships
<u>Chapter 258</u>	Constables
<u>Chapter 259</u>	Coroners
<u>Chapter 260</u>	County Public Defenders



Local Governments in Nevada

Statutory Provisions

TITLE 21—CITIES AND TOWNS

Chapter 265	Incorporation and Disincorporation of Cities and Towns
Chapter 266	General Law for Incorporation of Cities and Towns
Chapter 267	Commission Form of Municipal Government
Chapter 268	Powers and Duties Common to Cities and Towns Incorporated Under General or Special Laws
Chapter 269	Unincorporated Towns



Local Governments in Nevada

Statutory Provisions

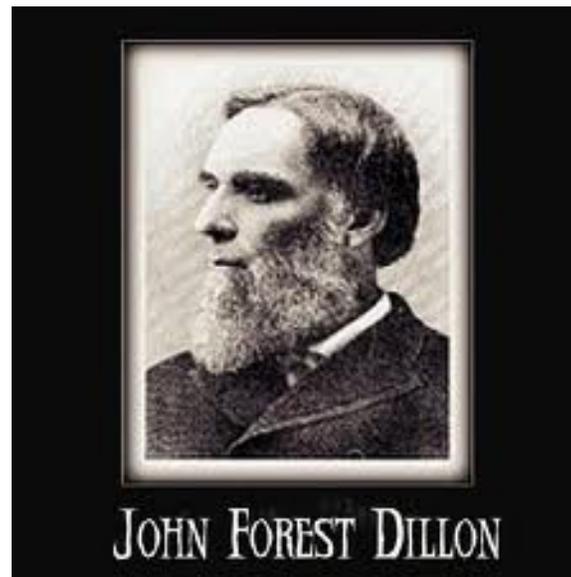
TITLE 19—MISCELLANEOUS MATTERS RELATED TO GOVERNMENT AND PUBLIC AFFAIRS

Chapter 234	State and Local Governmental Boundaries
Chapter 235	State Emblems; Gifts and Endowments
Chapter 236	Holidays and Periods of Observance
Chapter 237	Miscellaneous Provisions Applicable to Local Governments
Chapter 237A	Foreign Trade Zones and Trade Districts
Chapter 238	Legal Notices and Advertisements
Chapter 239	Public Records
Chapter 239A	Disclosure of Financial Records to Governmental Agencies
Chapter 239B	Disclosure of Personal Information to Governmental Agencies
Chapter 239C	Homeland Security
Chapter 240	Notaries Public and Commissioned Abstracters
Chapter 241	Meetings of State and Local Agencies
Chapter 241A	Advisory Council for Prosecuting Attorneys
Chapter 242	Information Services



Local Governments in Nevada

Dillon's Rule



Local Governments in Nevada

Dillon's Rule

"It is a general and undisputed proposition of law that a municipal corporation possesses, and can exercise, the following powers and no other: First, those granted in express words; second, those necessarily or fairly implied in, or incident to, the powers expressly granted; third, those essential to the declared objects and purposes of the corporation not simply convenient, but indispensable. Any fair, reasonable doubt concerning the existence of power is resolved by the courts against the corporation, and the power is denied.

(City of Clinton v. Cedar Rapids and Missouri River Railroading Company (24 Iowa 455 (1868))



Meetings of Local Governing Bodies

Frequency of Meetings

Cities – NRS 266.245 or City Charter

NRS 266.245 Meetings: Frequency, time and place of holding; compliance with Open Meeting Law.

1. The city 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 city council must be conducted in accordance with the provisions of chapter 241 of NRS.



Meetings of Local Governing Bodies

Frequency of Meetings Counties – NRS 244.085

NRS 244.085 Regular and additional meetings of board; meetings held outside county seat; meetings with other governing bodies; attendance at conventions, conferences, seminars or hearings.

1. Except as otherwise provided in this section, the meetings of the boards of county commissioners must be held at the county seats of their respective counties, or at a place not more than 10 miles from the county seat within the boundaries of the county, at least once in each calendar month, on a day or days to be fixed by ordinance.
2. If the day fixed by ordinance falls on a Saturday or on a nonjudicial day, the meeting must be held on the next judicial day.
3. The first meeting of the board in odd-numbered years must be held on the first Monday in January, but if the first Monday in January is a nonjudicial day, the meeting must be held on the next judicial day.
4. The meeting day and place as fixed by ordinance must remain unchanged, unless notice of a proposed change is published once a week for 2 consecutive weeks in a newspaper of general circulation in the county.
5. Additional meetings of the board of county commissioners may be held at any place within the boundaries of the county. If the board meets outside the county seat, notice of the meeting must be given by publication once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or by publication for 1 week in two or more newspapers of general circulation published in the county.
6. At a meeting held outside the county seat, the board of county commissioners may, in accordance with NRS 241.020, take final action on any matter except zoning or planning matters which relate to a different geographical area than the geographical area in which the meeting is held.
7. The board may meet with the governing body of another governmental unit at any location, including, without limitation, a location outside the county, but the meeting may not be held at a place which is more than 10 miles from the county seat unless the board, in addition to complying with all other requirements for notice of a meeting of the board, provides notice by publication in a newspaper of general circulation within the county, for at least 3 working days before the meeting, of the date, time and place of the meeting. In no case may the board take any official action at such a meeting.
8. Members of the board may attend conventions, conferences, seminars, congressional hearings or other federal hearings to gather specific information or conduct the official business of the association or sponsoring organization at any location if no action is taken by the board in the course of such activity.



Meetings of Local Governing Bodies

Frequency of Meetings Counties – NRS 244.090

NRS 244.090 Special meetings of board: Call; notice; filling temporary appointments; canvass of election returns.

1. Except as provided in subsections 4 and 5, special meetings may be called by the chair or, in the chair's absence, by the vice chair whenever there is sufficient business to come before the board, or upon the written request of a majority of the board.
2. The clerk of the board shall give written notice of each special meeting to each member of the board by personal delivery of the notice of the special meeting to each member at least 1 day before the meeting or by mailing the notice to each member's place of residence in the county or by deposit in the United States mails, postage prepaid, at least 4 days before the meeting.
3. The notice must specify the time, place and purpose of the meeting. If all of the members of the board are present at a special meeting, lack of notice does not invalidate the proceedings.
4. When there is in any county, township or precinct office no officer authorized to execute the duties of that office, and it is necessary that a temporary appointment be made to fill the office, as otherwise provided by law, the board of county commissioners shall forthwith hold a special meeting for that purpose. The meeting may be held by unanimous consent of the board, or, if for any cause unanimous consent cannot be obtained, then the chair or any other member of the board having knowledge of the necessity shall forthwith call the special meeting and notify the other members of the meeting. The meeting must be held as soon as practicable, but not less than 3 days, except by unanimous consent, after actual notice to all members of the board, whereupon a majority of the board shall proceed to act upon the appointment as provided by law.
5. The board shall also meet after each general election to canvass election returns in the manner provided by law.



Meetings of Local Governing Bodies

Requirements for a Quorum

Cities – NRS 266.235 or City Charter

NRS 266.235 Quorum. Except as otherwise provided in NRS 241.0355, a majority of all members of the city 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.

Counties – NRS 244.060

NRS 244.060 Board of county commissioners: Quorum; tie vote.

1. Except as otherwise provided in NRS 241.0355, a majority of the board constitutes a quorum for the transaction of business.
2. When a majority only of the members is present at a meeting of the board, in case of a tie vote on any question, the vote must be postponed to a subsequent meeting.



Meetings of Local Governing Bodies

Requirements for a Quorum

Abstentions

NRS 241.0355 Majority of all members of public body composed solely of elected officials required to take action by vote; abstention not affirmative vote; reduction of quorum.

1. A public body that is required to be composed of elected officials only may not take action by vote unless at least a majority of all the members of the public body vote in favor of the action. For purposes of this subsection, a public body may not count an abstention as a vote in favor of an action.
2. In a county whose population is 40,000 or more, the provisions of subsection 5 of NRS 281A.420 do not apply to a public body that is required to be composed of elected officials only, unless before abstaining from the vote, the member of the public body receives and discloses the opinion of the legal counsel authorized by law to provide legal advice to the public body that the abstention is required pursuant to NRS 281A.420. The opinion of counsel must be in writing and set forth with specificity the factual circumstances and analysis leading to that conclusion.



Meetings of Local Governing Bodies

Base Requirements

Regular or Special Meetings

- Proper Notice of Meeting
- Agenda
- Quorum
- Clerk or Appointee
- District or City Attorney*
- Recording Capability



Meetings of Local Governing Bodies

Additional Requirements for Counties

- Be held at the county seat or within 10 miles of the county seat within the boundaries of the county.
- Additional meetings may be held at any place within the boundaries or the county. If the board meets outside the county seat, notice of the meeting must be given by publication once a week for two consecutive weeks in a newspaper of general circulation published in the county or by publication for 1 week in two or more newspapers of general circulation published in the county.



Meetings of Local Governing Bodies

Public Notice Requirements

NRS 241.020 Meetings to be open and public; limitations on closure of meetings; notice of meetings; copy of materials; exceptions.

1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute. Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.
2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:
 - (a) The time, place and location of the meeting.
 - (b) A list of the locations where the notice has been posted.
 - (c) An agenda consisting of:
 - (1) A clear and complete statement of the topics scheduled to be considered during the meeting.
 - (2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items.
 - (3) A period devoted to comments by the general public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).
 - (4) If any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.
 - (5) If, during any portion of the meeting, the public body will consider whether to take administrative action against a person, the name of the person against whom administrative action may be taken.
3. Minimum public notice is:
 - (a) Posting a copy of the notice at the principal office of the public body or, if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting; and
 - (b) Providing a copy of the notice to any person who has requested notice of the meetings of the public body. A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text included within the first notice sent. The notice must be:
 - (1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or
 - (2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.
4. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.



Local Governing Bodies

Procedures to Fill Vacancies

Cities

Mayor – NRS 266.180 or by Charter

NRS 266.180 Vacancy filled by city council. Any vacancy occurring in the office of mayor, by death, resignation, removal or otherwise, shall be filled by the city 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 a successor at the next general city election, and the successor's qualification.

Council Member – NRS.255 or by Charter

NRS 266.225 Vacancy in office of council member filled by mayor and council; exception. Except as otherwise provided in NRS 268.325, any vacancy occurring in the office of council member by death, resignation, removal or otherwise must be filled by the mayor and city council at the first regular meeting after the vacancy, when the council and the mayor, who has the same voting power thereon as a council member, shall by a majority vote elect some person possessing the requisite qualifications, who shall hold the office until the election and qualification of a successor at the next general city election.



Local Governing Bodies

Procedures to Fill Vacancies

Counties

NRS 244.040

NRS 244.040 Vacancy in office of county commissioner.

1. Any vacancy occurring in any board of county commissioners must be filled by appointment of the Governor. Except in Carson City, the Governor shall appoint a suitable person who is a member of the same political party as the most recent holder of the vacant office.
2. The term of office of a person appointed to the office of county commissioner does not, by virtue of the appointment, extend beyond 12 p.m. of the day preceding the first Monday of January next following the next general election.



Local Governing Bodies

Procedures During an Emergency

What is an Emergency?

Who can declare an Emergency?

Provisions for Meetings of the Governing Body

What if?



Local Governing Bodies

Procedures During an Emergency

What is an Emergency?

NRS 414.0345 “Emergency” defined. “Emergency” means an occurrence or threatened occurrence for which, in the determination of the Governor, the assistance of state agencies is needed to supplement the efforts and capabilities of political subdivisions to save lives, protect property and protect the health and safety of persons in this state, or to avert the threat of damage to property or injury to or the death of persons in this state.

NRS 241.020 Meetings to be open and public; limitations on closure of meetings; notice of meetings; copy of materials; exceptions.

8. As used in this section, “emergency” means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

- (a) Disasters caused by fire, flood, earthquake or other natural causes; or
- (b) Any impairment of the health and safety of the public.



Local Governing Bodies

Procedures During an Emergency

Who can declare an Emergency?



Authority to declare an emergency varies among cities and counties.



Local Governing Bodies

Procedures During an Emergency

Provisions for Emergency Meetings of a Governing Body

Exemption from noticing requirements of Open Meeting Law contained in NRS 241.020(2)

NRS 241.020 Meetings to be open and public; limitations on closure of meetings; notice of meetings; copy of materials; exceptions.

2. Except in an **emergency**, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:
- (a) The time, place and location of the meeting.
 - (b) A list of the locations where the notice has been posted.
 - (c) An agenda consisting of:
 - (1) A clear and complete statement of the topics scheduled to be considered during the meeting.



Emergency Meetings

Procedures During an Emergency

What is Needed?

- Location
- Agenda
- Quorum
- Clerk or Appointee
- District or City Attorney*



Emergency Meetings

Procedures During an Emergency

What is Needed?

➤ Location – Each governing body should have alternate locations identified and stocked with necessary supplies for use in case the normal meeting facility cannot be used.



Emergency Meetings

Procedures During an Emergency

What is Needed?

- Agenda – an agenda can be produced for an emergency meeting in a short period of time.



Emergency Meetings

Procedures During an Emergency

What is Needed?

- Quorum – the ultimate necessity to conduct a meeting of the governing body is the presence of a quorum.



Emergency Meetings

Procedures During an Emergency

What is Needed?

➤ Clerk or Appointee – Either the city/county clerk or an appointee must attend and record the proceedings of the meeting.

Equipment to record meeting is also needed.



Emergency Meetings

Procedures During an Emergency

What is Needed?

- District or City Attorney* - unless in Court the District or City Attorney or their designee should attend the meeting.



Local Governing Bodies

What if?

The clerk is unavailable?

City Clerks are primarily appointed by the City Council.

County Clerks are elected officials. In case of a vacancy, the Board of County Commissioners may appoint a replacement.

NRS 245.170 Vacancies: Appointment by board of county commissioners; placement of office on ballot under certain circumstances. Except as otherwise provided by specific statute, if a vacancy is declared in any county or township office, except the offices of district judge and county commissioner:

1. Thirty days or more before the date of the close of filing of declarations of candidacy specified in NRS 293.177, and the office is not otherwise scheduled for election at the next ensuing biennial election:

- (a) The board of county commissioners shall appoint a suitable person who is an elector of the county to fill the vacancy until the first Monday of January after the next ensuing biennial election;
- (b) The office must be placed on the ballot at that election; and
- (c) The person elected shall serve the remainder of the unexpired term.

2. At any other time, the board of county commissioners shall appoint a suitable person who is an elector of the county to serve the remainder of the unexpired term.

NRS 245.180 Temporary appointments.

1. When, at any time, there shall be in the county offices, except the office of district judge, no officer duly authorized to execute the duties thereof, some suitable person may be temporarily appointed by the board of county commissioners to perform the duties of such offices, until they are filled by election or appointment, as provided by law. In case there is no board of county commissioners in such county, the Governor may, on notice of such vacancy, create or fill such board.

2. Any person so appointed, in pursuance of subsection 1, shall, before proceeding to execute the duties assigned the person, qualify in the same manner as required by law of the officer in whose place he or she shall be appointed; and he or she shall continue to exercise and perform the duties of the office to which he or she shall be so appointed until the election of his or her successor at the next ensuing biennial election, and the qualification of such successor thereafter.



Local Governing Bodies

What if?

There is no quorum?

Houston, we
have a problem!!



Local Governing Bodies

Lack of a Quorum – What Now?

Vacancies in the office of Mayor or on a City Council are normally filled by appointment by the City Council or by special election pursuant to NRS or the City Charter.

NRS 266.180 Vacancy filled by city council. Any vacancy occurring in the office of mayor, by death, resignation, removal or otherwise, shall be filled by the city 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 a successor at the next general city election, and the successor's qualification.

NRS 266.225 Vacancy in office of council member filled by mayor and council; exception. Except as otherwise provided in NRS 268.325, any vacancy occurring in the office of council member by death, resignation, removal or otherwise must be filled by the mayor and city council at the first regular meeting after the vacancy, when the council and the mayor, who has the same voting power thereon as a council member, shall by a majority vote elect some person possessing the requisite qualifications, who shall hold the office until the election and qualification of a successor at the next general city election.

NRS 268.325 Methods to fill vacancy on governing body of city. If a vacancy occurs on the governing body of a city, the governing body may, in lieu of appointment, declare by resolution a special election to fill the vacancy.

There are no provisions in statute that we were able to locate for appointment by the Governor (or anyone else) to achieve a quorum.



Local Governing Bodies

Lack of a Quorum – What Now?

Vacancies on a Board of County Commissioners are filled by appointment by the Governor.

NRS 244.040 Vacancy in office of county commissioner.

1. Any vacancy occurring in any board of county commissioners must be filled by appointment of the Governor. Except in Carson City, the Governor shall appoint a suitable person who is a member of the same political party as the most recent holder of the vacant office.
2. The term of office of a person appointed to the office of county commissioner does not, by virtue of the appointment, extend beyond 12 p.m. of the day preceding the first Monday of January next following the next general election.

A Board of County Commissioners may be made whole by immediate action of the Governor.



Local Governing Bodies

Lack of a Quorum – What Now?

What about NRS 239C?

NRS 239C.260 Plan for continuation of state and local governmental operations in event of catastrophic emergency.

1. In accordance with the provisions of **Section 37 of Article 4** of the Nevada Constitution, the Nevada Legislature hereby establishes a plan for continuation of state and local governmental operations. The provisions set forth in this section apply only in, and must be used in accordance with, the circumstances described in subsection 2.

2. In the event that this State or a portion of this State is stricken by a **catastrophic emergency** of such magnitude that, in the opinion of the Governor or, in the absence of the Governor, the Lieutenant Governor, the existing provisions of the Nevada Constitution and the statutes of this State relating to the filling of vacancies in office are not able to provide for a sufficiently expedient continuity of government and temporary succession of power as a result of vacancies in office created by the catastrophic emergency, the provisions of subsections 3 to 10, inclusive, apply.

7. If vacancies occur on a board of county commissioners as a result of a catastrophic emergency:

- (a) The remaining members of the board available for duty constitute the board and have full power to act by majority vote of those present; and
- (b) Any requirements for a quorum applicable to the board must initially be suspended and must subsequently be adjusted as vacant offices are filled.

If a board of county commissioners is rendered entirely vacant as a result of a catastrophic emergency, such other elected officers of the county as may be available to serve on the board have full authority to act in all matters as a board of county commissioners.

8. If vacancies occur on a city council as a result of a catastrophic emergency:

- (a) The remaining members of the council available for duty constitute the council and have full power to act by majority vote of those present; and
- (b) Any requirements for a quorum applicable to the council must initially be suspended and must subsequently be adjusted as vacant offices are filled.

If a city council is rendered entirely vacant as a result of a catastrophic emergency, such other elected officers of the city as may be available to serve on the council have full authority to act in all matters as a city council.

11. As used in this section, “catastrophic emergency” means an emergency resulting from disasters caused by enemy attack, in accordance with Section 37 of Article 4 of the Nevada Constitution.



Local Governing Bodies

Lack of a Quorum – What Now?

Section 37 of Article 4 of the Nevada Constitution

Section 37. **Continuity of government in case of enemy attack; succession to public offices; legislative quorum requirements; relocation of seat of government.** The legislature, in order to insure continuity of state and local governmental operations in periods of emergency resulting from disasters caused by **enemy attack**, shall have the power and the immediate duty to provide for immediate and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and to adopt such other measures as may be necessary and proper for insuring the continuity of governmental operations, including changes in quorum requirements in the legislature and the relocation of the seat of government. In the exercise of the powers hereby conferred, the legislature shall conform to the requirements of this constitution except to the extent that in the judgment of the legislature so to do would be impracticable or would admit of undue delay.

[Added in 1964. Proposed and passed by the 1961 legislature; agreed to and passed by the 1963 legislature; and approved and ratified by the people at the 1964 general election. See Statutes of Nevada 1961, p. 831; Statutes of Nevada 1963, p. 1416.]



Local Governing Bodies

Lack of a Quorum – What Now?

Do the provisions of NRS 239C.260 apply in emergencies that are not the result of enemy attack?

Without an opinion by the Attorney General to the contrary, the wording of NRS 239C.260, and, more importantly Section 37 of Article 4 of the Nevada Constitution, it appears that the answer is no.



Local Governing Bodies

NRS 239C.260

In instances where the provisions of NRS 239C.260 do apply there are still issues with the language of the bill.

Boards of County Commissioners (NRS 239C.260(7)) – provides for the other elected officials of a county to serve as the county commission in cases where the entire board is rendered entirely vacant. There are no provision as to which other elected officials, how many or in what order would become the board.

City Councils (NRS 239C.260(8)) – contains similar provisions for other elected officials if a city council becomes entirely vacant. Some cities do not have other elected officials and others only have one or two.



Continuity of Government

Conclusions

- All local governments should create a COG plan. The plan may be incorporated with the government's COOP plan but should be a stand-alone document.
- There appears to be adequate statutory provisions to allow for the continuity of local governing bodies if there are sufficient members of the governing body for a quorum. However, there may be a need for amending the current statutes or enacting new law to clarify their application in an emergency.



Continuity of Government

COG Plans

Continuity of Government Plans should include the following:

- A mechanism to determine the status of governing board members following an emergency.
- Identification and provision of secondary meeting locations in case the primary location is rendered unusable.
- Contingency plans to transport governing board members and other essential personnel to meeting location if necessary.
- Contingency plans to house members of the governing body and other essential personnel.
- Procedures for informing media organizations of time and location of any emergency meetings to be held.
- Procedures for communicating with the public regarding the emergency and any decisions the governing body makes as a result of the emergency.



Continuity of Government

Concerns

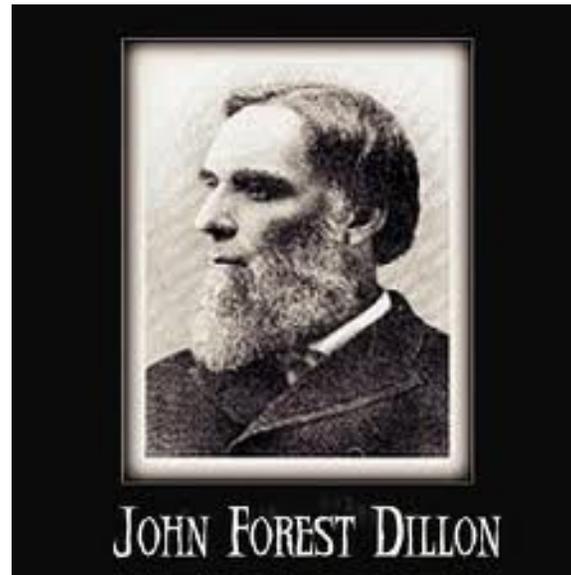
- Emergency Meetings – there are no specific statutory authorities for holding emergency meetings of local governing boards. The statutes contain requirements for regular and special meetings but are quiet on emergency meetings.
- Appointment of City Council members – there is no authority for the Governor to make appointments to a city council to enable the council to form a quorum.
- Lack of COG plans for local governments.
- Lack of constitutional and statutory provisions for replacement of governing body members or reduction of number needed for a quorum in emergencies other than those caused by “enemy attack”.



Continuity of Government

Why Can't Local Governments Fix it Themselves?

Remember this guy?



Continuity of Government

Recommendations

- Legislation clarifying the authority of local governing bodies to hold emergency meetings.
- Legislation granting the Governor authority to appoint members to governing bodies if there are enough vacancies that a quorum cannot be reached.
- Legislation amending the provisions of NRS 239C.260 to clarify the order in which other elected officials would serve as the governing body following an emergency and provisions for filling vacancies on City Councils with other than elected officials.
- Legislation to authorize the filling of vacancies on local governing bodies in emergencies other than those caused by “enemy attacks”.
- Formulation of stand-alone COG plans by all local governments.



Continuity of Government

Questions?



Thanks to the following for assisting in this project:

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Thank You

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“Continuity of Government (COG)” Readiness Analysis Project



**Report by the Nevada Association of Counties
Jeffrey Fontaine, Executive Director
Prepared by Wes Henderson, Deputy Director
December 2011**

Table of Contents

Introduction Page 3

Executive SummaryPage 4

Nevada’s Cities and CountiesPage 6

Meetings of Governing BodiesPage 9

Emergency ProceduresPage 12

Conclusions Page 16

Concerns Page 18

Recommendations Page 20

Table of References Page 22

Appendix Page 24



Continuity of Government (COG) Readiness Analysis Project Report

Introduction

Continuity of Government (COG) is the ability of a governing body to continue to function during and after an emergency. While related to Continuity of Operations (COOP) planning, the focus of COG planning should be to ensure the ability of the governing body to operate and continue to set policy and authorize expenditures during emergencies. This project looked at the existing Constitutional and Statutory provisions regarding local governments. City charters were also reviewed. City and county managers were interviewed to gain an understanding of what plans are in place to ensure the continuity of government. Local governments' emergency response plans and codes were looked at. Continuity guidance circulars published by the federal government were reviewed as well as policies from other states. Areas of concern were identified and suggestions were formulated for local governments to consider.



Executive Summary

Nevada's Constitution and statutes have, for the most part, sufficient provisions to allow local governing bodies to continue to operate during and after an emergency. There are provisions in place that allow for governing bodies to meet at other than their normal facilities. There are also exemptions to the noticing requirements of the Open Meeting Law for emergency meetings of a governing body. The most critical concern that needs to be addressed is instances where there is a lack of a quorum. There appear to be no procedures that allow a governing body to adjust the number of members needed for a quorum unless the emergency that reduced the number of members available is a result of an enemy attack. Additionally, there are no provisions in place for the timely appointment of new members to a governing body. While there are provisions to allow other elected officials to serve as a governing body if necessary following an enemy attack these provisions are not clear and may not resolve the quorum issue for most cities. Legislative action will be needed to resolve these issues. Local governments should consider the development and adoption of Continuity of Government (COG) plans. These COG plans,



Continuity of Government (COG) Readiness Analysis Project Report

while closely associated with Continuity of Operations (COOP) plans, should be stand-alone documents that address the specific needs of local governing bodies to ensure they can continue to operate during and after emergencies. At a minimum these plans should address procedures for the notification of governing body members that an emergency exists, contain provisions to ensure the safety of governing body members, identify alternate meeting locations and have contingency plans for transportation to these locations, contain a checklist of the supplies and materials necessary to conduct meetings of the governing body and contain provisions for alerting the media of any emergency meetings and for communicating with the public.



Nevada's Cities and Counties

The Nevada Constitution contains several provisions that allow for the creation of counties and cities and help to define what authorities they have. The manner in which cities and counties must operate and what duties and authorities they have and other guidance is contained in the Nevada Revised Statutes. Nevada's nine original counties were established by the Territorial Legislature on November 25, 1861. The first city to be incorporated in Nevada was Carson City which was incorporated in March 1875. Carson City was consolidated with Ormsby County in 1969 and is the only consolidated municipality in Nevada. There are currently 17 counties (including Carson City) and 18 cities in the state. Nevada has two types of cities, general law and charter. Eleven cities have adopted charters and the remaining 7 are general law cities. Carson City, while considered a county for legislative purposes, also has a charter and functions somewhat differently from the other counties.

Counties

Article 4 of the Nevada Constitution provides that there be a uniform system of county and township government (Section 25), how the boards of county commissioners are elected and what their duties are (Section 26)



Continuity of Government (COG) Readiness Analysis Project Report

and specifies that county clerks, recorders, auditors, sheriffs, district attorneys and public administrators are elected offices and charges the Legislature with providing for their election and duties (Section 32). This section also specifies that county clerks shall be ex-officio Clerks of the Courts of Record and of the Boards of County Commissioners in and for their respective counties. It should be noted that the courts have ruled that the Legislature can enact statutes that apply only to certain counties if they are based on population statistics. One such ruling was issued in *County of Clark v. City of Las Vegas* (97 Nev. 260 (1981)). There are numerous statutes currently in place that apply only to counties with certain population ranges.

Title 20 of the Nevada Revised Statutes governs the operations of the counties. Chapter 244 provides for the number of members and the duties of the boards of county commissioners. Other chapters outline the duties and responsibilities of the county clerks, recorders, sheriffs, treasurers, assessors, auditors and comptrollers, district attorneys, public administrators and guardians, engineers, surveyors, constables, coroners and public defenders. The financing of public improvements, other county officers and employees and the formation of townships are also covered in

Title 20.



Nevada Association of Counties



Continuity of Government (COG) Readiness Analysis Project Report

Cities

Article 8 of the Nevada Constitution addresses the formation of cities and towns. Specifically, Section 1 allows for special acts for municipal corporations. Section 8 allows for the adoption of a charter by a municipal corporation. Title 21 of the Nevada Revised Statutes contains statutes providing for the incorporation and disincorporation of cities and towns, allow for a commission form of municipal government and describes the duties of incorporated cities and towns. Chapter 269 of Title 21 includes provisions relating to unincorporated towns. Towns may have either an elected, semi-autonomous, town board or have a town advisory board that makes recommendations to the board of county commissioners that have ultimate responsibility for the town. The board of county commissioners may place a question on the ballot seeking voter approval to dissolve an elected town board.



Meetings of Governing Bodies

In order for a governing body to take action or carry out their responsibilities they must be able to meet. Requirements for meetings are contained in statute or in adopted city charters. A quorum, consisting of a majority of the members of the governing body, must be present in order for any action to be taken. At a minimum, all governing bodies are required to meet at least once a month. In practice, all governing bodies meet at least twice monthly. All meetings of local government governing bodies are subject to the provisions of the Open Meeting Law (NRS 241). Generally, notice of the meeting including the time and location of the meeting and an agenda that clearly identifies items on which action may be taken must be published three business days in advance of the meeting.

Statutes and city charters require that local governing boards adopt an ordinance setting the times and locations of regular meetings of the governing body. There are statutory and charter provisions in place that allow the Mayor of a city or the chair or vice-chair of a board of county commissioners to call a special meeting of the governing board. The noticing requirements of the Open Meeting Law apply to any special meeting called. Meetings of local governing bodies are generally held in

Continuity of Government (COG) Readiness Analysis Project Report

the main government facility. Boards of County Commissioners are required to meet at least once a month at the county seat or within 10 of miles of the county seat. Additional meetings may be held elsewhere within the county provided that certain noticing requirements, including publication of the time and location of the meeting in a newspaper of general circulation in the county, are complied with. Interestingly, there are no specific references in statute to emergency meetings except for an exclusion to the noticing requirements of the Open Meeting Law contained in NRS 241.020. Procedures for calling an emergency meeting are not outlined in statute or in any city charter that we reviewed. Interestingly, several city charters contain provisions that allow for a “special” meeting to be held within 6 hours of being called. It is not clear if these “special meetings” qualify for the “emergency meeting” exclusion in NRS 241.020. In addition to complying with the noticing requirements of the Open Meeting Law, the city or county clerk, or their designee, must be available to attend and record the proceedings of the meeting. The city or district attorney or their deputy should also be in attendance. Many city charters expressly state that the city attorney attend all meetings of the city council. NRS 252.170 states that the district attorney must be present when the county



Continuity of Government (COG) Readiness Analysis Project Report

commission is engaged in auditing accounts and claims and give them legal advice whenever asked.



Nevada Association of Counties



Emergency Procedures

A declaration that an emergency exists is required in order for a local government to utilize any emergency procedures that are available to them under Nevada law. Two questions that need to be answered are what constitutes an emergency and who can declare that an emergency exists. NRS 414.0345 defines what types of occurrences can be justification for the governor to declare an emergency. However, this declaration by the governor is issued when “in the determination of the Governor, the assistance of state agencies is needed to supplement the efforts and capabilities of political subdivisions to save lives, protect property and protect the health and safety of persons in this state, or to avert the threat of damage to property or injury to or the death of persons in this state.” Perhaps a better definition for local emergencies may be found in the “emergency meeting exclusion” to the noticing requirements of the Open Meeting Law found in NRS 241.020. Subsection 8 of this statute reads “As used in this section, “emergency” means an unforeseen circumstance which requires immediate action and includes, but is not limited to:

- (a) Disasters caused by fire, flood, earthquake or other natural causes; or
- (b) Any impairment of the health and safety of the public.



Continuity of Government (COG) Readiness Analysis Project Report

The answer to the question of who can declare that an emergency exists varies from one local government to the next. In some instances only the governing body, or the chair of the governing body, can declare an emergency. Some local governments have procedures that allow the city or county manager to declare that an emergency exists, however these declarations are often subject to verification by the governing board. Once an emergency has been declared the provisions of NRS 414.090(2) allow local governments to deviate from certain normal procedures in order to respond to the emergency. However, with the exception of the provisions of NRS 239C.260 which we will discuss shortly, the only statutory provision relating to the local governing bodies themselves is the noticing exemption contained in the Open Meeting Law. Other provisions regarding meetings of local governing bodies remain in place throughout an emergency. In order to meet and take action, including action in response to an emergency, a quorum of a governing body must be present. Additionally the city or county clerk and the city or district attorney must be present. Of course a functional place to hold the meeting is also needed.

Sections 7 and 8 of NRS 239C.260 allow for the continuation of the governing boards of counties and cities respectively. These sections allow for the reduction in the number of members that constitute a quorum if



Nevada Association of Counties



Continuity of Government (COG) Readiness Analysis Project Report

vacancies occur as a result of a “catastrophic emergency” and provide that other elected officials of the county or city can serve as the governing body if the entire board is rendered vacant as a result of the emergency. However, this statute was enacted in accordance with the provisions of Section 37 of Article 4 of the Nevada Constitution which allows the Legislature to make provisions for the continuity of government following an enemy attack. Sections 1 and 11 of the statute specifically refer to the Constitution. Section 11 reads, “As used in this section, “catastrophic emergency” means an emergency resulting from disasters caused by enemy attack, in accordance with Section 37 of Article 4 of the Nevada Constitution. As a result, these provisions allowing for the continuation of a governing board do not apply to any other emergency other than those caused by an enemy attack. The requirement that a quorum of a governing body be present for the body to take action, even following an emergency, is the critical factor regarding the continuity of government during and after an emergency.

Because the need for a quorum is critical for a governing body to act a brief discussion regarding the processes in place for the filing of vacancies is warranted. Vacancies on a board of county commissioners are filled by appointment by the governor (NRS 244.040). The only restriction on the

Nevada Association of Counties



Continuity of Government (COG) Readiness Analysis Project Report

governor is that the appointee be of the same political party as the last person who held the seat. In the past, governors have asked the remaining members of the board for their input but there is no requirement for the governor to do so. Theoretically, the governor could act immediately to fill vacancies on a board of county commissioners. Vacancies on a city council may be filled by appointment by the remaining members of the council or by holding a special election. However, there must be sufficient members of the city council for a quorum before they could make an appointment or call for an election. There are no provisions that would allow for the governor, or anyone else for that matter, to appoint replacement members to a city council. There are no provisions that allow for temporary appointments to a board of county commissioners or a city council.



Conclusions

After researching the constitutional and statutory provisions regarding local governments, various city and county ordinances, city charters and interviewing several city and county managers the following conclusions can be drawn regarding the continuity of local governments in Nevada. First and foremost, all local governments should develop and adopt a “Continuity of Government” (COG) plan. This plan should be coordinated with the entities “Continuity of Operations” (COOP) plan but should be a stand-alone document. COG plans should include provisions to determine the status of governing board members following an emergency, identify and provision secondary meeting locations, transportation plans for the governing board members and other essential personnel such as the clerk and city or district attorney, contingency plans to house governing board members if necessary, procedures for informing the media of the times and locations of emergency meetings of the governing body, and procedures for communicating with the public.

Secondly, there appears to be adequate statutory provisions to allow for the continuity of local governing bodies if there are sufficient members to constitute a quorum. There is a need to amend current law or introduce



Continuity of Government (COG) Readiness Analysis Project Report

new legislation to ensure that local governing bodies can continue to function during and after an emergency if there are not enough members available for a quorum following an event that is not the result of an enemy attack.



Nevada Association of Counties



Concerns

The lack of “Continuity of Government” (COG) plans by local governments is a concern. It may be desirable for the Legislature or the State Division of Emergency Management to create guidelines for the creation and adoption of local government COG plans. These guidelines could be in the form of a template that local governments could tailor to their specific needs.

The Open Meeting Law contains a provision exempting emergency meetings of a local governing body from the usual noticing requirements however there are no provisions in statute defining, or authorizing, an emergency meeting. Regular and special meetings are addressed in statute and city charters but not emergency meetings. Several city charters contain provisions that allow for a special meeting to be held six hours after being called. It is unclear if these meetings qualify for the “emergency meeting” exemption of the Open Meeting Law.

The filling of vacancies on a city council is an area of concern. Normally vacancies are filled by appointment by the remaining members of the council or by special election. There are no provisions currently in place for a replacement to be appointed by the governor or some other authority if



Continuity of Government (COG) Readiness Analysis Project Report

the city council lacks a quorum and is therefore unable to meet and fill the vacancy.

The lack of constitutional and statutory provisions regarding the reduction in the number of members of a governing body needed for a quorum following emergencies other than those caused by enemy attack is another concern. The rapid filling of vacancies, including the possibility of replacing an entire board, is also not addressed in statute for emergencies that are not a result of an enemy attack.

The current statute (NRS 239C.260) regarding the continuity of local governments including the succession of other elected officials to the governing body following an enemy attack needs clarification. The statute does not specify in what order other elected county officials would be appointed to serve as members of a county commission. The statute also provides that other elected city officials could serve as members of the city council; however, most cities only have one or two elected officials other than the mayor and council members.



Recommendations

The actions listed here may be desirable to ensure that local governments in Nevada can continue to function during and after an emergency.

- All local governments should develop and adopt “Continuity of Government” (COG) plans.
- Legislation needs to be enacted clarifying the authority of local governments to hold emergency meetings.
- Legislation similar to NRS 239C.260 should be enacted to allow for reduced quorums and succession to local governing bodies during and after emergencies not caused by enemy attack.
- The provisions of NRS 239C.260 need to be amended to clarify the order in which other elected county officials would serve as members of the board of county commissioners. Additionally, the provisions regarding the succession of other city elected officials to serve on a city council needs to be amended as there may not be a sufficient number of elected offices in a given city.
- Legislation authorizing the governor to make appointments to fill vacancies on a city council to ensure they are able to form a quorum.

Continuity of Government (COG) Readiness Analysis Project Report

This legislation may want to authorize temporary appointments during an emergency.



Nevada Association of Counties



Table of References

Constitution of the State of Nevada

Article 4 Sections 25, 26, 32, 37

Article 8 Sections 1, 8

Nevada Revised Statutes

Title 19

Chapter 239C

NRS 239C.260

Chapter 241

NRS 241.020

Title 20

Chapters 243 through 260

Chapter 244

NRS 244.040

NRS 244.075

NRS 244.085

NRS 244.090

Chapter 246

NRS 246.060

Chapter 252

NRS 252.170

Title 21

Chapters 265 through 269

Chapter 266



Continuity of Government (COG) Readiness Analysis Project Report

NRS 266.180

NRS 266.225

NRS 266.235

NRS 266.245

NRS 266.250

Chapter 268

NRS 268.325

Title 36

Chapter 414

NRS 414.0345

NRS 414.090(2)

County of Clark v. Las Vegas (97 Nev. 260 (1981))

Local Government Authorities to Declare Emergencies

Lyon County

Churchill County

Washoe County

Storey County

City of Reno

Carson City



Nevada Association of Counties



Continuity of Government (COG) Readiness Analysis Project Report

Appendix

Constitution of the State of Nevada

Article 4

Sec: 25. **Uniform county and township government.** The Legislature shall establish a system of County and Township Government which shall be uniform throughout the State.

Sec: 26. **Boards of county commissioners: Election and duties.** The Legislature shall provide by law, for the election of a Board of County Commissioners in each County, and such County Commissioners shall jointly and individually perform such duties as may be prescribed by law.

Sec. 32. **County officers: Power of legislature; election, duties and compensation; duties of county clerks.** The Legislature shall have power to increase, diminish, consolidate or abolish the following county officers: County Clerks, County Recorders, Auditors, Sheriffs, District Attorneys and Public Administrators. The Legislature shall provide for their election by the people, and fix by law their duties and compensation. County Clerks shall be ex-officio Clerks of the Courts of Record and of the Boards of County Commissioners in and for their respective counties.

[Amended in 1889 and 1972. The first amendment was proposed and passed by the 1887 legislature; agreed to and passed by the 1889 legislature; and approved and ratified by the people at a special election held February 11, 1889. See: Statutes of Nevada 1887, p. 161; Statutes of Nevada 1889, p. 151. The second amendment was proposed and passed by the 1969 legislature; agreed to and passed by the 1971 legislature; and approved and ratified by the people at the 1972 general election. See: Statutes of Nevada 1969, p. 1723; Statutes of Nevada 1971, p. 2232.]

Section 37. **Continuity of government in case of enemy attack; succession to public offices; legislative quorum requirements; relocation of seat of government.** The legislature, in order to insure continuity of state and local governmental operations in periods of emergency resulting from disasters caused by enemy attack, shall have the power and the immediate duty to provide for immediate and temporary succession to the powers and duties of public offices, of whatever nature and whether filled by election or appointment, the incumbents of which may become unavailable for carrying on the powers and duties of such offices, and to adopt such other measures as may be necessary and proper for insuring the continuity of governmental operations, including changes in quorum requirements in the legislature and the relocation of the seat of government. In the exercise of the powers hereby conferred, the legislature shall conform to the requirements of this constitution except to the extent that in the judgment of the legislature so to do would be impracticable or would admit of undue delay.

[Added in 1964. Proposed and passed by the 1961 legislature; agreed to and passed by the 1963 legislature; and approved and ratified by the people at the 1964 general election. See Statutes of Nevada 1961, p. 831; Statutes of Nevada 1963, p. 1416.]

Article 8

Section. 1. **Corporations formed under general laws; municipal corporations formed under special acts.** The Legislature shall pass no Special Act in any manner relating to corporate powers except for Municipal purposes; but corporations may be formed under general laws; and all such laws may from time to time, be altered or repealed.

Section 8. **Municipal corporations formed under general laws.** 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.

[Amended in 1924. Proposed and passed by the 1921 legislature; agreed to and passed by the 1923 legislature; and approved and ratified by the people at the 1924 general election. See: Statutes of Nevada 1921, p. 420; Statutes of Nevada 1923, p. 403.]



Continuity of Government (COG) Readiness Analysis Project Report

Nevada Revised Statutes

NRS 239C.260 Plan for continuation of state and local governmental operations in event of catastrophic emergency.

1. In accordance with the provisions of Section 37 of Article 4 of the Nevada Constitution, the Nevada Legislature hereby establishes a plan for continuation of state and local governmental operations. The provisions set forth in this section apply only in, and must be used in accordance with, the circumstances described in subsection 2.
2. In the event that this State or a portion of this State is stricken by a catastrophic emergency of such magnitude that, in the opinion of the Governor or, in the absence of the Governor, the Lieutenant Governor, the existing provisions of the Nevada Constitution and the statutes of this State relating to the filling of vacancies in office are not able to provide for a sufficiently expedient continuity of government and temporary succession of power as a result of vacancies in office created by the catastrophic emergency, the provisions of subsections 3 to 10, inclusive, apply.
3. If a vacancy occurs in the Office of Governor as a result of a catastrophic emergency and none of the successors described in NRS 223.080 are able or available to act as Governor, the Legislature shall elect a person to serve as Governor. If the Legislature is not in session at the time the vacancy occurs, the Legislature may call itself into special session to elect a person to serve as Governor.
4. If vacancies occur in more than 15 percent of the seats in either house of the Legislature as a result of a catastrophic emergency:
 - (a) The remaining Legislators available for duty constitute the Legislature and have full power to act in separate or joint assembly by majority vote of those present;
 - (b) Any requirements for a quorum applicable to the Legislature must initially be suspended and must subsequently be adjusted as vacant offices are filled pursuant to NRS 218A.260; and
 - (c) If the affirmative vote of a specified proportion of members of the Legislature is required for the approval of a legislative measure, the same proportion of remaining members of the Legislature is sufficient for approval of that measure.
5. If vacancies occur in more than 15 percent of the positions held by justices on the Supreme Court as a result of a catastrophic emergency, the vacancies must be filled by appointment of the Governor.
6. If vacancies occur in more than 15 percent of the positions held by the district judges in any one judicial district as a result of a catastrophic emergency, the vacancies must be filled by appointment of the Supreme Court.
7. If vacancies occur on a board of county commissioners as a result of a catastrophic emergency:
 - (a) The remaining members of the board available for duty constitute the board and have full power to act by majority vote of those present; and
 - (b) Any requirements for a quorum applicable to the board must initially be suspended and must subsequently be adjusted as vacant offices are filled.
 - ↳ If a board of county commissioners is rendered entirely vacant as a result of a catastrophic emergency, such other elected officers of the county as may be available to serve on the board have full authority to act in all matters as a board of county commissioners.
8. If vacancies occur on a city council as a result of a catastrophic emergency:
 - (a) The remaining members of the council available for duty constitute the council and have full power to act by majority vote of those present; and
 - (b) Any requirements for a quorum applicable to the council must initially be suspended and must subsequently be adjusted as vacant offices are filled.
 - ↳ If a city council is rendered entirely vacant as a result of a catastrophic emergency, such other elected officers of the city as may be available to serve on the council have full authority to act in all matters as a city council.
9. If, during or following a catastrophic emergency, a majority of the members of a legislative body described in this section determines that, for purposes of safety or to address related concerns, the legislative body should meet at a location other than the location at which the legislative body ordinarily meets, the legislative body may arrange to meet at an alternate location.
10. After a catastrophic emergency has taken place, the Governor or, in the absence of the Governor, the Lieutenant Governor, shall:
 - (a) Determine and announce publicly when conditions have normalized within this State or the portion thereof affected by the catastrophic emergency.



Continuity of Government (COG) Readiness Analysis Project Report

(b) In cooperation with the Secretary of State, develop procedures and a reasonable schedule for filling by regular election the various offices filled temporarily pursuant to this section.

11. As used in this section, “catastrophic emergency” means an emergency resulting from disasters caused by enemy attack, in accordance with Section 37 of Article 4 of the Nevada Constitution.

(Added to NRS by 2003, 2458)

NRS 241.020 Meetings to be open and public; limitations on closure of meetings; notice of meetings; copy of materials; exceptions.

1. Except as otherwise provided by specific statute, all meetings of public bodies must be open and public, and all persons must be permitted to attend any meeting of these public bodies. A meeting that is closed pursuant to a specific statute may only be closed to the extent specified in the statute allowing the meeting to be closed. All other portions of the meeting must be open and public, and the public body must comply with all other provisions of this chapter to the extent not specifically precluded by the specific statute. Public officers and employees responsible for these meetings shall make reasonable efforts to assist and accommodate persons with physical disabilities desiring to attend.

2. Except in an emergency, written notice of all meetings must be given at least 3 working days before the meeting. The notice must include:

(a) The time, place and location of the meeting.

(b) A list of the locations where the notice has been posted.

(c) An agenda consisting of:

(1) A clear and complete statement of the topics scheduled to be considered during the meeting.

(2) A list describing the items on which action may be taken and clearly denoting that action may be taken on those items.

(3) A period devoted to comments by the general public, if any, and discussion of those comments. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2).

(4) If any portion of the meeting will be closed to consider the character, alleged misconduct or professional competence of a person, the name of the person whose character, alleged misconduct or professional competence will be considered.

(5) If, during any portion of the meeting, the public body will consider whether to take administrative action against a person, the name of the person against whom administrative action may be taken.

3. Minimum public notice is:

(a) Posting a copy of the notice at the principal office of the public body or, if there is no principal office, at the building in which the meeting is to be held, and at not less than three other separate, prominent places within the jurisdiction of the public body not later than 9 a.m. of the third working day before the meeting; and

(b) Providing a copy of the notice to any person who has requested notice of the meetings of the public body. A request for notice lapses 6 months after it is made. The public body shall inform the requester of this fact by enclosure with, notation upon or text included within the first notice sent. The notice must be:

(1) Delivered to the postal service used by the public body not later than 9 a.m. of the third working day before the meeting for transmittal to the requester by regular mail; or

(2) If feasible for the public body and the requester has agreed to receive the public notice by electronic mail, transmitted to the requester by electronic mail sent not later than 9 a.m. of the third working day before the meeting.

4. If a public body maintains a website on the Internet or its successor, the public body shall post notice of each of its meetings on its website unless the public body is unable to do so because of technical problems relating to the operation or maintenance of its website. Notice posted pursuant to this subsection is supplemental to and is not a substitute for the minimum public notice required pursuant to subsection 3. The inability of a public body to post notice of a meeting pursuant to this subsection as a result of technical problems with its website shall not be deemed to be a violation of the provisions of this chapter.

5. Upon any request, a public body shall provide, at no charge, at least one copy of:

(a) An agenda for a public meeting;

(b) A proposed ordinance or regulation which will be discussed at the public meeting; and

(c) Subject to the provisions of subsection 6, any other supporting material provided to the members of the public body for an item on the agenda, except materials:

(1) Submitted to the public body pursuant to a nondisclosure or confidentiality agreement which relates to proprietary information;



Continuity of Government (COG) Readiness Analysis Project Report

- (2) Pertaining to the closed portion of such a meeting of the public body; or
- (3) Declared confidential by law, unless otherwise agreed to by each person whose interest is being protected under the order of confidentiality.
 - ↳ The public body shall make at least one copy of the documents described in paragraphs (a), (b) and (c) available to the public at the meeting to which the documents pertain. As used in this subsection, “proprietary information” has the meaning ascribed to it in NRS 332.025.
- 6. A copy of supporting material required to be provided upon request pursuant to paragraph (c) of subsection 5 must be:
 - (a) If the supporting material is provided to the members of the public body before the meeting, made available to the requester at the time the material is provided to the members of the public body; or
 - (b) If the supporting material is provided to the members of the public body at the meeting, made available at the meeting to the requester at the same time the material is provided to the members of the public body.
 - ↳ If the requester has agreed to receive the information and material set forth in subsection 5 by electronic mail, the public body shall, if feasible, provide the information and material by electronic mail.
- 7. A public body may provide the public notice, information and material required by this section by electronic mail. If a public body makes such notice, information and material available by electronic mail, the public body shall inquire of a person who requests the notice, information or material if the person will accept receipt by electronic mail. The inability of a public body, as a result of technical problems with its electronic mail system, to provide a public notice, information or material required by this section to a person who has agreed to receive such notice, information or material by electronic mail shall not be deemed to be a violation of the provisions of this chapter.
- 8. As used in this section, “emergency” means an unforeseen circumstance which requires immediate action and includes, but is not limited to:
 - (a) Disasters caused by fire, flood, earthquake or other natural causes; or
 - (b) Any impairment of the health and safety of the public.

(Added to NRS by 1960, 25; A 1977, 1099, 1109; 1979, 97; 1989, 570; 1991, 785; 1993, 1356, 2636; 1995, 562, 1608; 2001, 2395; 2003, 488; 2005, 2243; 2007, 1122; 2009, 2288)

TITLE 20—COUNTIES AND TOWNSHIPS: FORMATION, GOVERNMENT AND OFFICERS	
Chapter 243	Counties: Creation; Boundaries; Seats; Abolishment
Chapter 244	Counties: Government
Chapter 244A	Counties: Financing of Public Improvements
Chapter 245	Counties: Officers and Employees Generally
Chapter 246	County Clerks
Chapter 247	County Recorders
Chapter 248	Sheriffs
Chapter 249	County Treasurers
Chapter 250	County Assessors
Chapter 251	County Auditors and Comptrollers
Chapter 252	District Attorneys
Chapter 253	Public Administrators and Guardians
Chapter 254	County Engineers
Chapter 255	County Surveyors
Chapter 257	Townships
Chapter 258	Constables
Chapter 259	Coroners
Chapter 260	County Public Defenders



Continuity of Government (COG) Readiness Analysis Project Report

NRS 244.040 Vacancy in office of county commissioner.

1. Any vacancy occurring in any board of county commissioners must be filled by appointment of the Governor. Except in Carson City, the Governor shall appoint a suitable person who is a member of the same political party as the most recent holder of the vacant office.

2. The term of office of a person appointed to the office of county commissioner does not, by virtue of the appointment, extend beyond 12 p.m. of the day preceding the first Monday of January next following the next general election.

[Part 1:80:1865; A 1869, 92; B § 3070; BH § 1942; C § 2104; RL § 1501; NCL § 1935] + [Part 2:80:1865; A 1869, 92; B § 3071; BH § 1943; C § 2105; RL § 1502; NCL § 1936]—(NRS A 1983, 6; 1987, 2306; 1989, 242)

NRS 244.075 Records of board: Duties of clerk; public inspection.

1. The clerk shall keep a full and complete record of all the proceedings of the board, together with a full and complete alphabetical index and page citation of and for the record and proceedings, and all such proceedings shall be entered upon the record.

2. The record of each day's proceedings of the board shall be signed by the chair and the clerk. In case the chair shall be absent at any meeting of the board, all documents, records or papers requiring the signature of the board shall be signed by the members present.

3. The books, records and accounts of the board shall be kept at the office of the clerk of the board, and shall, during business hours, be kept open to public inspection free of charge.

[Part 5:80:1865; A 1909, 140; RL § 1505; NCL § 1939] + [7:80:1865; B § 3076; BH § 1948; C § 2110; RL § 1507; NCL § 1941]

NRS 244.085 Regular and additional meetings of board; meetings held outside county seat; meetings with other governing bodies; attendance at conventions, conferences, seminars or hearings.

1. Except as otherwise provided in this section, the meetings of the boards of county commissioners must be held at the county seats of their respective counties, or at a place not more than 10 miles from the county seat within the boundaries of the county, at least once in each calendar month, on a day or days to be fixed by ordinance.

2. If the day fixed by ordinance falls on a Saturday or on a nonjudicial day, the meeting must be held on the next judicial day.

3. The first meeting of the board in odd-numbered years must be held on the first Monday in January, but if the first Monday in January is a nonjudicial day, the meeting must be held on the next judicial day.

4. The meeting day and place as fixed by ordinance must remain unchanged, unless notice of a proposed change is published once a week for 2 consecutive weeks in a newspaper of general circulation in the county.

5. Additional meetings of the board of county commissioners may be held at any place within the boundaries of the county. If the board meets outside the county seat, notice of the meeting must be given by publication once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or by publication for 1 week in two or more newspapers of general circulation published in the county.

6. At a meeting held outside the county seat, the board of county commissioners may, in accordance with [NRS 241.020](#), take final action on any matter except zoning or planning matters which relate to a different geographical area than the geographical area in which the meeting is held.

7. The board may meet with the governing body of another governmental unit at any location, including, without limitation, a location outside the county, but the meeting may not be held at a place which is more than 10 miles from the county seat unless the board, in addition to complying with all other requirements for notice of a meeting of the board, provides notice by publication in a newspaper of general circulation within the county, for at least 3 working days before the meeting, of the date, time and place of the meeting. In no case may the board take any official action at such a meeting.

8. Members of the board may attend conventions, conferences, seminars, congressional hearings or other federal hearings to gather specific information or conduct the official business of the association or sponsoring organization at any location if no action is taken by the board in the course of such activity.

[Part 3:80:1865; A 1897, 90; 1909, 217; 1913, 22; 1915, 74; 1917, 1; 1921, 94; NCL § 1937]—(NRS A 1971, 7; 1979, 370; 1989, 58, 1294; 1991, 1138; 1999, 175; 2003, 344)



Continuity of Government (COG) Readiness Analysis Project Report

NRS 244.090 Special meetings of board: Call; notice; filling temporary appointments; canvass of election returns.

1. Except as provided in subsections 4 and 5, special meetings may be called by the chair or, in the chair’s absence, by the vice chair whenever there is sufficient business to come before the board, or upon the written request of a majority of the board.
2. The clerk of the board shall give written notice of each special meeting to each member of the board by personal delivery of the notice of the special meeting to each member at least 1 day before the meeting or by mailing the notice to each member’s place of residence in the county or by deposit in the United States mails, postage prepaid, at least 4 days before the meeting.
3. The notice must specify the time, place and purpose of the meeting. If all of the members of the board are present at a special meeting, lack of notice does not invalidate the proceedings.
4. When there is in any county, township or precinct office no officer authorized to execute the duties of that office, and it is necessary that a temporary appointment be made to fill the office, as otherwise provided by law, the board of county commissioners shall forthwith hold a special meeting for that purpose. The meeting may be held by unanimous consent of the board, or, if for any cause unanimous consent cannot be obtained, then the chair or any other member of the board having knowledge of the necessity shall forthwith call the special meeting and notify the other members of the meeting. The meeting must be held as soon as practicable, but not less than 3 days, except by unanimous consent, after actual notice to all members of the board, whereupon a majority of the board shall proceed to act upon the appointment as provided by law.
5. The board shall also meet after each general election to canvass election returns in the manner provided by law. [Part 3:80:1865; A 1897, 90; 1909, 217; 1913, 22; 1915, 74; 1917, 1; 1921, 94; NCL § 1937]—(NRS A 1959, 289; 1960, 284; 1965, 1276; 1981, 237)

NRS 246.060 Duties.

1. The county clerk shall be ex officio clerk of the board of county commissioners, and also clerk of the district court of his or her county.
2. The county clerk shall perform such duties as clerk of the district court and clerk of the board of county commissioners, as required by law, and all other duties required by any other law of this State. [Part 1:108:1866; B § 2599; BH § 1636; C § 1782; RL § 2765; NCL § 4765] + [Part 4:82:1861; A 1933, 149; 1931 NCL § 2191]

NRS 252.170 Attendance at certain meetings of board of county commissioners; duties. The district attorney, when not in attendance on the sittings of the district court as criminal prosecutor, shall attend the sittings of the board of county commissioners, when engaged in auditing accounts and claims brought against the county, and in all cases oppose such accounts or claims as the district attorney may deem illegal or unjust, and shall, at all times, give his or her advice when required to the members of the board of county commissioners upon matters relating to their duties. [13:125:1865; B § 2947; BH § 2116; C § 2307; RL § 1604; NCL § 2082]

TITLE 21—CITIES AND TOWNS	
Chapter 265	Incorporation and Disincorporation of Cities and Towns
Chapter 266	General Law for Incorporation of Cities and Towns
Chapter 267	Commission Form of Municipal Government
Chapter 268	Powers and Duties Common to Cities and Towns Incorporated Under General or Special Laws
Chapter 269	Unincorporated Towns

NRS 266.180 Vacancy filled by city council. Any vacancy occurring in the office of mayor, by death, resignation, removal or otherwise, shall be filled by the city 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 a successor at the next general city election, and the successor’s qualification. [19 1/2:125:1907; added 1933, 7; 1931 NCL § 1119.01]



Continuity of Government (COG) Readiness Analysis Project Report

NRS 266.225 Vacancy in office of council member filled by mayor and council; exception. Except as otherwise provided in NRS 268.325, any vacancy occurring in the office of council member by death, resignation, removal or otherwise must be filled by the mayor and city council at the first regular meeting after the vacancy, when the council and the mayor, who has the same voting power thereon as a council member, shall by a majority vote elect some person possessing the requisite qualifications, who shall hold the office until the election and qualification of a successor at the next general city election.

[19:125:1907; RL § 785; NCL § 1119]—(NRS A 1997, 2448)

NRS 266.235 Quorum. Except as otherwise provided in NRS 241.0355, a majority of all members of the city 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.

[20:125:1907; RL § 786; NCL § 1120]—(NRS A 2001, 629, 1125; 2003, 14)

NRS 266.245 Meetings: Frequency, time and place of holding; compliance with Open Meeting Law.

1. The city 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 city council must be conducted in accordance with the provisions of chapter 241 of NRS.

[22:125:1907; RL § 788; NCL § 1122] + [24:125:1907; RL § 790; NCL § 1124]—(NRS A 2001, 629)

NRS 266.250 Meetings to be public; minutes; audio recordings or transcripts; required recorded votes; affirmative vote of majority of all members required to pass ordinances and certain propositions.

1. The deliberations, sessions and proceedings of the city council must be public.

2. The city council shall keep written minutes and audio recordings or transcripts of its own proceedings as required pursuant to NRS 241.035. The yeas and nays must be taken upon the passage of all ordinances, and all propositions to create any liability against the city, or to grant, deny, increase, decrease, abolish or revoke licenses, and in all other cases at the request of any member of the city council or of the mayor, which yeas and nays must be entered in the minutes of its proceedings.

3. The affirmative vote of a majority of all the members elected to the city council is necessary to pass any such ordinance or proposition.

[23:125:1907; RL § 789; NCL § 1123]—(NRS A 2001, 629, 1125; 2003, 14; 2005, 1408)

NRS 268.325 Methods to fill vacancy on governing body of city. If a vacancy occurs on the governing body of a city, the governing body may, in lieu of appointment, declare by resolution a special election to fill the vacancy.

(Added to NRS by 1997, 2448)

NRS 414.0345 “Emergency” defined. “Emergency” means an occurrence or threatened occurrence for which, in the determination of the Governor, the assistance of state agencies is needed to supplement the efforts and capabilities of political subdivisions to save lives, protect property and protect the health and safety of persons in this state, or to avert the threat of damage to property or injury to or the death of persons in this state.

(Added to NRS by 1999, 1242)

NRS 414.090 Local organization for emergency management; powers of political subdivision in event of emergency or disaster.

1. Each political subdivision of this state may establish a local organization for emergency management in accordance with the state emergency management plan and program for emergency management. Such a political subdivision may confer or authorize the conferring upon members of the auxiliary police the powers of police officers, subject to such restrictions as it imposes. Each local organization for emergency management must have a director who must be appointed by the executive officer or governing body of the political subdivision, and who has direct responsibility for the organization, administration and operation of the local organization for emergency management subject to the direction and control of the executive officer or governing body. Each local organization for emergency management shall perform functions of emergency management within the territorial limits of the political subdivision within which it is organized, and, in addition, shall conduct such functions outside of such territorial limits as may be required pursuant to the provisions of NRS 414.100.

2. In carrying out the provisions of this chapter, each political subdivision in which any emergency or disaster described in NRS 414.020 occurs may enter into contracts and incur obligations necessary to combat such an



Continuity of Government (COG) Readiness Analysis Project Report

emergency or disaster, protect the health and safety of persons and property and provide emergency assistance to the victims of such an emergency or disaster. Each political subdivision may exercise the powers vested under this section in the light of the exigencies of the extreme emergency or disaster without regard to time-consuming procedures and formalities prescribed by law, except constitutional requirements, pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, the purchase of supplies and materials, the levying of taxes, and the appropriation and expenditure of public funds.

[9:293:1953]—(NRS A 1983, 172; 1999, 1246)

County of Clark v. Las Vegas (97 Nev. 260 (1981))

May 26, 1981

COUNTY OF CLARK, BY AND THROUGH ITS BOARD OF COUNTY COMMISSIONERS, THALIA DONDERO, CHAIRMAN, DAVID CANTER, VICE CHAIRMAN, ROBERT N. BROADBENT, SAM BOWLER, RICHARD RONZONE, MANUEL CORTEZ, AND JACK PETITTI, CONSTITUTING SAID BOARD, AND SHERIFF OF CLARK COUNTY, RALPH J. LAMB, APPELLANTS, V. CITY OF LAS VEGAS, NEVADA, BY AND THROUGH ITS BOARD OF CITY COMMISSIONERS, WILLIAM H. BRIARE, RON LURIE, PAUL J. CHRISTENSEN, ROY WOOFER AND MYRON E. LEAVITT, CONSTITUTING SAID BOARD, RESPONDENTS.

Appeal from order granting partial summary judgment. Eighth Judicial District Court, Clark County; Joseph S. Pavlikowski, Judge. {/History}

Robert J. Miller, District Attorney, Scott W. Doyle, Deputy District Attorney, Clark County, for Appellants.

By the Court, Batjer, J.:

The City of Las Vegas (City) and F. D. Houston, 1 a resident of Las Vegas, Nevada, filed suit for declaratory relief against Clark County (County) challenging the constitutionality of Chapter 280 of the Nevada Revised Statutes. That chapter mandates consolidation of county and city police agencies in any city which is the county seat of a county having a population of 200,000 2 or more. The legislation was first enacted in 1973 and the Legislature has amended portions thereof during each successive legislative session. In the district court the county moved for partial summary judgment based upon its contention that NRS Chapter 280 did not constitute special or local legislation. The City filed a cross-motion for partial summary judgment asking that NRS Chapter 280 be held unconstitutional as a matter of law. The district court granted partial summary judgment for the City, declaring portions of NRS 280.100 and NRS 280.201 to be unconstitutional, granted the County's motion for certification pursuant to NRCP 54(b) and ordered the parties stayed from implementing any changes relating to the partial summary judgment pending appeal. The County claims that the district court erred when it found NRS 280.100 and NRS 280.201 to be special or local legislation prohibited by the Nevada Constitution, art. 4, SS 20, 21 and 25, and therefore unconstitutional.

Legislative enactments enjoy the presumption of constitutionality. The burden is upon the attacking party to show the questioned statute to be unconstitutional.

[97 Nev. 260, Page 263]

Anthony v. State of Nevada, 94 Nev. 337, 341, 580 P.2d 939, 941 (1978); Damus v. County of Clark, 93 Nev. 512, 516, 569 P.2d 933, 935 (1977); Viale v. Foley, 76 Nev. 149, 152, 350 P.2d 721, 722 (1960). 1. The district court declared NRS 280.100 to be unconstitutional as originally enacted



Nevada Association of Counties



Continuity of Government (COG) Readiness Analysis Project Report

because it included the date of July 1, 1973. 3 The court found "upon a fair reading" that the date operated as an absolute cutoff beyond which no additional cities or counties would be compelled by law to merge. Since Clark County and Las Vegas were the only entities meeting the requirements on that date, the court found the statute to be impermissible special legislation. This conclusion was erroneous because by Chapter 572 of the 1979 Statutes of Nevada, the legislature deleted the date which, according to the ruling of the district court, rendered NRS 280.100(1) unconstitutional. If the original insertion of "July 1, 1973" into NRS 280.100(1) rendered that section unconstitutional, its deletion by amendment cured the defect. *McCormick v. District Court*, 69 Nev. 214, 221, 246 P.2d 805, 808 (1952).

2. NRS 280.100 mandates consolidation of a county law enforcement agency with the law enforcement agency of a city which is the county seat, if the county's population is 200,000 or more. The district court found NRS 280.100 to be "illusory" because it was not reasonably and rationally related to a legitimate legislative purpose and therefore unconstitutional. This was error. If the Legislature enacts a statute with a population classification which applies to a few counties, or even to one county, it is not necessarily in contravention of the Nevada Constitution, art. 4, SS 20 and 21, which forbids the enactment of local or special laws. *Viale v. Foley*, supra. If the classification applies prospectively to all counties which might come within its designated class, it is neither local nor special. *Reid v. Woofter*, 88 Nev. 378, 380, 498 P.2d 361, 367 (1972); *Fairbanks v. Pavlikowski*, 83 Nev. 80, 83, 423 P.2d 401 (1967).

[97 Nev. 260, Page 264]

Nor is such an enactment in violation of the Nevada Constitution, art. 4, S 25, which requires a uniform system of county and township government as long as the use of the population criteria is rationally related to the subject matter and does not create an odious or absurd distinction. *Anthony v. State of Nevada*, 94 Nev. 338, 341, 580 P.2d 939, 941 (1978). Although the district court correctly found the intended legislative purpose as expressed in Chapter 568 of the 1973 Statutes of Nevada was to reduce duplication of functions and expenses and to coordinate law enforcement efforts throughout the metropolitan areas, it nevertheless went on to determine the legislative purpose would not be served by the population based mandatory merger provisions of NRS 280.100, both as originally enacted and as amended by Chapter 338, 1979 Statutes of Nevada. See NRS 280.010. For nearly a century this court has continued to approve use by the legislature of a population criterion in effecting laws which may nevertheless be deemed general. 4 *State v. Donovan*, 20 Nev. 75, 15 P. 783 (1887); *Damus v. County of Clark*, supra; *Anthony v. State*, supra; accord, *Reid v. Woofter*, supra. However, the use must be rationally related to the subject matter and must not create odious or absurd distinctions. *Anthony v. State of Nevada*, supra.

Here, the required consolidation of law enforcement agencies of the county seat and the county within the population limitations is as rationally related to the subject matter and the purpose of the act as were the relationships in the previously decided cases. NRS 280.010. The population limitation is prospectively applicable to all counties and county seats which might come within its designated class. Furthermore, the limitations are neither odious, absurd or bizarre and comport favorably with established law. As a result, we reverse the district court and find NRS 280.100 to be constitutional.

3. We turn now to consider the funding formula and find that NRS 280.201(1)(a) specifies rather than classifies and is therefore constitutionally impermissible and in contravention of Nevada Constitution, art. 4, S 21. *State v. Boyd*, 19 Nev. 43

[97 Nev. 260, Page 265]

(1885); *Anthony*, supra, at 342, 580 P.2d at 942. The unconstitutional specification did not appear in the original enactment of 1973, 5 but was added in the amendments of 1977 6 and 1979. 7 Because these specifications in the plan for apportionment of expenses, as amended, are unconstitutional, the law as it existed prior to the amendments will be controlling. *Johnson v. Goldman*, 94 Nev. 6, 9, 575



Continuity of Government (COG) Readiness Analysis Project Report

P.2d 929, 930 (1978). 4. Although both the City and the County, in briefs filed with this court, extensively discuss the question of the constitutionality of those particular sections of Chapter 338, 1979 Statutes of Nevada, which raised the population classification factor from 200,000 to 250,000, that question is not now before us. In the order granting partial summary judgment, the district court specifically found those sections of Chapter 338, 1979 Statutes of Nevada, which change the population classification factor in NRS Chapter 280 from 200,000 to 250,000, to be unconstitutional. The County has chosen not to appeal from that finding, and has specifically conceded the unconstitutionality of the change from 200,000 to 250,000. Upon that issue the partial summary judgment of the district court remains in full force and effect. The judgment of the district court is affirmed in part and reversed in part in conformance with this opinion.

Gunderson, C. J., and Manoukian, Springer, and Mowbray, JJ., concur.

Local Government Authorities to Declare Disaster

Lyon County

3.03.03: DECLARATION OF AN EMERGENCY OR A DISASTER:

The declaration of an emergency or a disaster must be made whenever it is deemed necessary:

- A. By the board, if a quorum is present;
- B. By the county manager, if no quorum of the board is present in Lyon County;
- C. By the county manager's designee, if no quorum of the board is present in Lyon County and the county manager is not present in Lyon County or is unable to act.

A declaration of an emergency or a disaster may be suspended or revoked by the person or body that declared it or by the board in any event. (Ord. 530, 10-16-2008)

Churchill County

3.03.03: DECLARATION OF AN EMERGENCY OR A DISASTER:

The declaration of an emergency or a disaster must be made whenever it is deemed necessary:

- A. By the board, if a quorum is present;
- B. By the county manager, if no quorum of the board is present in Lyon County;
- C. By the county manager's designee, if no quorum of the board is present in Lyon County and the county manager is not present in Lyon County or is unable to act.



Continuity of Government (COG) Readiness Analysis Project Report

A declaration of an emergency or a disaster may be suspended or revoked by the person or body that declared it or by the board in any event. (Ord. 530, 10-16-2008)

Washoe County

65.320 Declaration of emergency; procedure.

1. If the board determines that a state of emergency exists, it shall declare in writing that an emergency exists and shall publicize the existence of the emergency. If circumstances prohibit timely action by the board, the county manager may declare a state of emergency and seek the ratification of that declaration by a majority of the board at the next lawful meeting of the board. If the board fails to ratify the action of the county manager, the state of emergency ceases to exist.
2. Upon such declaration, the county manager is empowered, except as prohibited by law, to assume centralized control of and have authority over all departments, divisions, and offices of the county in order to implement the provisions of this code.
3. The board or county manager shall terminate the state of emergency when the emergency no longer exists or the threat of an emergency has passed.

Storey County

H. Declaration Procedure. 1. When an emergency or disaster is so severe that effective response is beyond the capability of Storey County alone and state or federal assistance is needed to supplement county responses and recovery efforts, the Storey County board of commissioners may, upon declaring a state of emergency in Storey County, request a state of emergency declaration from the Governor of Nevada for the purpose of supporting county efforts. 2. If the disaster is so severe that local and state resources are inadequate to effectively handle it, the Governor may request a presidential emergency or disaster declaration. The procedures are described in the state of Nevada emergency plan. 3. The following are standard procedures for declaring a state of emergency. In cases of obviously severe situations which require immediate support, the Governor has the option of making a state disaster declaration immediately and dispatching damage assessment teams as soon as possible. a. Upon the recommendation of the assistant to the commissioners by majority vote, the Storey County board of commissioners may pass a resolution which declares the county is in a state of emergency (a sample resolution declaring a disaster or emergency and requesting a state disaster declaration follows this list of procedures). b. Upon declaring a state of emergency for Storey County the board of commissioners may request a state emergency declaration to support local response and recovery efforts. This request must be made by notifying the Governor and the Nevada Division of Emergency Management. The Governor shall be notified by the State Emergency Management



Continuity of Government (COG) Readiness Analysis Project Report

Director. The Nevada Division of Emergency Management shall be notified by the local director of emergency management. c. Immediately upon notification of the declared state of emergency, the Director of Nevada Division of Emergency Management will coordinate with the emergency management director for Storey County to arrange for a joint damage assessment of the impacted area.

City of Reno

Sec. 8.34.050. - Declaration of emergency; procedure.

(a) When in the judgement of the mayor or in his absence the assistant mayor or in his absence the city manager that an emergency/disaster is deemed to exist, they shall forthwith proclaim in writing the existence of same.

(b) The mayor, assistant mayor, the city council, or the city manager shall terminate the state of emergency when the emergency no longer exists or the threat of an emergency has passed.

Carson City

6.02.030 - Declaration of an emergency or a disaster.

The declaration of an emergency or disaster must be made whenever it is deemed necessary:

1. By the board, if a quorum is present;
2. By the city manager, if no quorum of the board is present in Carson City;
3. By the city manager's designee, if no quorum of the board is present in Carson City and the city manager is not present in Carson City or is unable to act.

A declaration of an emergency or a disaster may be suspended or revoked by the person or body that declared it or by the board in any event.

