



STAFF REPORT

Report To: Board of Supervisors **Meeting Date:** April 4, 2019

Staff Contact: Nancy Paulson, City Manager (npaulson@carson.org)

Agenda Title: For Possible Action: Discussion and possible action on Senate Bill (SB) 398 of the 80th (2019) Session of the Nevada Legislature, a bill relating to affordable housing. (Nancy Paulson, npaulson@carson.org)

Staff Summary: During this session of the Nevada Legislature, City staff will bring to meetings of the Board of Supervisors legislative bills as requested by the Board for review or those that staff believes will impact Carson City. SB 398 provides that the powers of a board of county commissioners to address matters of local concern include certain powers relating to affordable housing.

Agenda Action: Formal Action / Motion **Time Requested:** 5 Minutes

Proposed Motion

I move to (support, oppose, remain neutral on) SB 398.

Board's Strategic Goal

Quality of Life

Previous Action

N/A

Background/Issues & Analysis

Legislative Counsel's Digest:

Existing law authorizes a board of county commissioners or the governing body of an incorporated city to exercise powers necessary or proper to address matters of local concern, whether or not such powers are expressly granted to the board or governing body. (NRS 244.146, 268.0035) Sections 1 and 3 of this bill include the development or redevelopment of affordable housing and any action taken to ensure the availability or affordability of housing as matters of local concern for a board of county commissioners or the governing body of a city, respectively. Existing law generally prohibits a board of county commissioners or the governing body of an incorporated city from imposing a tax or imposing a service charge or user fee unless expressly authorized by statute. (NRS 244.146, 268.0035) Sections 2 and 4 of this bill provide that these provisions do not prohibit a board of county commissioners or governing body, respectively, from accepting a payment of money in lieu of the performance of an obligation imposed upon a person by ordinance.

Applicable Statute, Code, Policy, Rule or Regulation

NRS 244.146; Carson City Charter, Art. 2, Sec. 2.090; various provisions of NRS.

Financial Information

Is there a fiscal impact? No

If yes, account name/number:

Is it currently budgeted?

Explanation of Fiscal Impact:

Alternatives

Take a position to support, oppose or remain neutral; not take a position; Mayor remand back to staff with instructions based on discussion on the record.

Attachments:

[SB398.pdf](#)

Board Action Taken:

Motion: _____

1) _____

2) _____

Aye/Nay

(Vote Recorded By)

SENATE BILL NO. 398—SENATOR RATTI

MARCH 20, 2019

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to affordable housing. (BDR 20-1074)

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

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

AN ACT relating to local government; providing that the powers of a board of county commissioners to address matters of local concern include certain powers relating to affordable housing; providing that the powers of the governing body of an incorporated city to address matters of local concern include certain powers relating to affordable housing; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes a board of county commissioners or the governing body of an incorporated city to exercise powers necessary or proper to address matters of local concern, whether or not such powers are expressly granted to the board or governing body. (NRS 244.146, 268.0035) Sections 1 and 3 of this bill include the development or redevelopment of affordable housing and any action taken to ensure the availability or affordability of housing as matters of local concern for a board of county commissioners or the governing body of a city, respectively.

Existing law generally prohibits a board of county commissioners or the governing body of an incorporated city from imposing a tax or imposing a service charge or user fee unless expressly authorized by statute. (NRS 244.146, 268.0035) Sections 2 and 4 of this bill provide that these provisions do not prohibit a board of county commissioners or governing body, respectively, from accepting a payment of money in lieu of the performance of an obligation imposed upon a person by ordinance.

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

Section 1. NRS 244.143 is hereby amended to read as follows: 244.143 1. “Matter of local concern” means any matter that:



1 (a) Primarily affects or impacts areas located in the county, or
2 persons who reside, work, visit or are otherwise present in areas
3 located in the county, and does not have a significant effect or
4 impact on areas located in other counties;

5 (b) Is not within the exclusive jurisdiction of another
6 governmental entity; and

7 (c) Does not concern:

8 (1) A state interest that requires statewide uniformity of
9 regulation;

10 (2) The regulation of business activities that are subject to
11 substantial regulation by a federal or state agency; or

12 (3) Any other federal or state interest that is committed by
13 the Constitution, statutes or regulations of the United States or this
14 State to federal or state regulation that preempts local regulation.

15 2. The term includes, without limitation, any of the following
16 matters of local concern:

17 (a) Public health, safety and welfare in the county.

18 (b) Planning, zoning, development and redevelopment in the
19 county.

20 (c) *The development or redevelopment of affordable housing*
21 *in the county or any action taken by the county to ensure the*
22 *availability or affordability of housing in the county.*

23 (d) Nuisances and graffiti in the county.

24 ~~(d)~~ (e) Outdoor assemblies in the county.

25 ~~(e)~~ (f) Contracts and purchasing by county government.

26 ~~(f)~~ (g) Operation, management and control of county jails and
27 prisoners by county government.

28 ~~(g)~~ (h) Any public property, buildings, lands, utilities and
29 other public works owned, leased, operated, managed or controlled
30 by county government, including, without limitation:

31 (1) Roads, highways and bridges.

32 (2) Parks, recreational centers, cultural centers, libraries and
33 museums.

34 3. The provisions of subsection 2:

35 (a) Are intended to be illustrative;

36 (b) Are not intended to be exhaustive or exclusive; and

37 (c) Must not be interpreted as either limiting or expanding the
38 meaning of the term "matter of local concern" as provided in
39 subsection 1.

40 **Sec. 2.** NRS 244.146 is hereby amended to read as follows:

41 244.146 1. Except as prohibited, limited or preempted by the
42 Constitution, statutes or regulations of the United States or this State
43 and except as otherwise provided in this section, a board of county
44 commissioners has:

45 (a) All powers expressly granted to the board;



1 (b) All powers necessarily or fairly implied in or incident to the
2 powers expressly granted to the board; and

3 (c) All other powers necessary or proper to address matters of
4 local concern for the effective operation of county government,
5 whether or not the powers are expressly granted to the board. If
6 there is any fair or reasonable doubt concerning the existence of a
7 power of the board to address a matter of local concern pursuant to
8 this paragraph, it must be presumed that the board has the power
9 unless the presumption is rebutted by evidence of a contrary intent
10 by the Legislature.

11 2. If there is a constitutional or statutory provision requiring a
12 board of county commissioners to exercise a power set forth in
13 subsection 1 in a specific manner, the board may exercise the power
14 only in that specific manner, but if there is no constitutional or
15 statutory provision requiring the board to exercise the power in a
16 specific manner, the board may adopt an ordinance prescribing a
17 specific manner for exercising the power.

18 3. Except as expressly authorized by statute, a board of county
19 commissioners shall not:

20 (a) Condition or limit its civil liability unless such condition or
21 limitation is part of a legally executed contract or agreement
22 between the county and another governmental entity or a private
23 person or entity.

24 (b) Prescribe the law governing civil actions between private
25 persons or entities.

26 (c) Impose duties on another governmental entity unless the
27 performance of the duties is part of a legally executed agreement
28 between the county and another governmental entity.

29 (d) Impose a tax.

30 (e) Order or conduct an election.

31 4. Except as expressly authorized by statute or necessarily or
32 fairly implied in or incident to powers expressly authorized by
33 statute, a board of county commissioners shall not:

34 (a) Impose a service charge or user fee; or

35 (b) Regulate business activities that are subject to substantial
36 regulation by a federal or state agency.

37 *5. The provisions of subsections 3 and 4 must not be*
38 *construed to prohibit a board of county commissioners from*
39 *accepting a payment of money in lieu of the performance of an*
40 *obligation imposed upon a person by ordinance of the board of*
41 *county commissioners.*

42 **Sec. 3.** NRS 268.003 is hereby amended to read as follows:

43 268.003 1. "Matter of local concern" means any matter that:

44 (a) Primarily affects or impacts areas located in the incorporated
45 city, or persons who reside, work, visit or are otherwise present in



1 areas located in the city, and does not have a significant effect or
2 impact on areas located in other cities or counties;

3 (b) Is not within the exclusive jurisdiction of another
4 governmental entity; and

5 (c) Does not concern:

6 (1) A state interest that requires statewide uniformity of
7 regulation;

8 (2) The regulation of business activities that are subject to
9 substantial regulation by a federal or state agency; or

10 (3) Any other federal or state interest that is committed by
11 the Constitution, statutes or regulations of the United States or this
12 State to federal or state regulation that preempts local regulation.

13 2. The term includes, without limitation, any of the following
14 matters of local concern:

15 (a) Public health, safety and welfare in the city.

16 (b) Planning, zoning, development and redevelopment in the
17 city.

18 (c) *The development or redevelopment of affordable housing*
19 *in the city or any action taken by the city to ensure the availability*
20 *or affordability of housing in the city.*

21 (d) Nuisances and graffiti in the city.

22 ~~(d)~~ (e) Outdoor assemblies in the city.

23 ~~(e)~~ (f) Contracts and purchasing by city government.

24 ~~(f)~~ (g) Operation, management and control of city jails and
25 prisoners by city government.

26 ~~(g)~~ (h) Any public property, buildings, lands, utilities and
27 other public works owned, leased, operated, managed or controlled
28 by city government, including, without limitation:

29 (1) Roads, highways and bridges.

30 (2) Parks, recreational centers, cultural centers, libraries and
31 museums.

32 3. The provisions of subsection 2:

33 (a) Are intended to be illustrative;

34 (b) Are not intended to be exhaustive or exclusive; and

35 (c) Must not be interpreted as either limiting or expanding the
36 meaning of the term "matter of local concern" as provided in
37 subsection 1.

38 **Sec. 4.** NRS 268.0035 is hereby amended to read as follows:

39 268.0035 1. Except as prohibited, limited or preempted by
40 the Constitution, statutes or regulations of the United States or this
41 State and except as otherwise provided in this section, the governing
42 body of an incorporated city has:

43 (a) All powers expressly granted to the governing body;

44 (b) All powers necessarily or fairly implied in or incident to the
45 powers expressly granted to the governing body; and



1 (c) All other powers necessary or proper to address matters of
2 local concern for the effective operation of city government,
3 whether or not the powers are expressly granted to the governing
4 body. If there is any fair or reasonable doubt concerning the
5 existence of a power of the governing body to address a matter of
6 local concern pursuant to this paragraph, it must be presumed that
7 the governing body has the power unless the presumption is rebutted
8 by evidence of a contrary intent by the Legislature.

9 2. If there is a constitutional or statutory provision or provision
10 of a city charter requiring the governing body of an incorporated
11 city to exercise a power set forth in subsection 1 in a specific
12 manner, the governing body may exercise the power only in that
13 specific manner, but if there is no constitutional or statutory
14 provision or provision of city charter requiring the governing body
15 to exercise the power in a specific manner, the governing body may
16 adopt an ordinance prescribing a specific manner for exercising the
17 power.

18 3. Except as expressly authorized by statute or city charter, the
19 governing body of an incorporated city shall not:

20 (a) Condition or limit its civil liability unless such condition or
21 limitation is part of a legally executed contract or agreement
22 between the city and another governmental entity or a private person
23 or entity.

24 (b) Prescribe the law governing civil actions between private
25 persons or entities.

26 (c) Impose duties on another governmental entity unless the
27 performance of the duties is part of a legally executed agreement
28 between the city and another governmental entity.

29 (d) Impose a tax.

30 (e) Order or conduct an election.

31 4. Except as expressly authorized by statute or city charter or
32 necessarily or fairly implied in or incident to powers expressly
33 authorized by statute or city charter, the governing body of an
34 incorporated city shall not:

35 (a) Impose a service charge or user fee; or

36 (b) Regulate business activities that are subject to substantial
37 regulation by a federal or state agency.

38 *5. The provisions of subsections 3 and 4 must not be*
39 *construed to prohibit the governing body of an incorporated city*
40 *from accepting a payment of money in lieu of the performance of*
41 *an obligation imposed upon a person by ordinance of the*
42 *governing body.*

43 **Sec. 5.** This act becomes effective on July 1, 2019.

