

Assembly

4-1289

GOVERNMENT AFFAIRS COMMITTEE

MINUTES OF THE MEETING

April 30, 1975

MEMBERS PRESENT: ASSEMBLYMAN DINI
VICE-CHAIRMAN MURPHY
ASSEMBLYMAN CRADDOCK
ASSEMBLYMAN HARMON
ASSEMBLYMAN MAY
ASSEMBLYMAN MOODY
ASSEMBLYMAN FORD
ASSEMBLYMAN YOUNG

MEMBERS ABSENT: ASSEMBLYMAN SCHOFIELD

ALSO PRESENT: Vernon Bennett, Public Employees Retirement
System
Louis Schaffer
Mert Crouch
Robert Falche
Greg W. Tuchtzer, Town of Genoa
H. William Brooks
George Finn
Sandy McCormick, Silver City

(The following bills were discussed: S.B. 491, S.B. 505, S.B. 498, A.B. 711, A.B. 713, A.B. 686, A.B. 557, A.B. 616, A.B. 617, A.B. 618, A.B. 415, A.B. 230, A.B. 612).

Vice-Chairman Murphy called the meeting to order at 8:00 A.M.

Mrs. Ford testified on S.B. 491, which revises unincorporated town government law. She indicated that they had spoken with members of the Boards of County Commissioners in the State. There are 39 unincorporated towns in the State. They are large urban areas in the state and they should have some other kind of designation.

She referred to a report given to the committee, a copy of which is attached to these minutes and made a part hereof. There is a lack of uniformity in applying the law. There are 39 towns formed under 39 different systems. There was an effort made in 1969 to create a new mechanism for town government. This created a town board that would have a combination of appointed people. No county has opted to make use of the statute with the exception

of Crescent Valley. Mrs. Ford stated that the conclusions were on page 12 of the report that she had distributed to the committee. There is a great need for unincorporated town government, but there is a need to have a uniform criteria as to what it is and how you establish boundaries. They have attempted to provide this concept covered in the conclusions.

Mrs. Ford stated that there should be an addition study such as the 318 districts which do have an impact on unincorporated towns. In the back of the report she stated that there was a questionnaire that they sent out to all unincorporated towns in the study. This report was released in the last six weeks. Mrs. Ford stated that S.B. 505 was in the Senate on the Secretary's desk because there is a question that has been raised by some people from Mineral county that it would eliminate some power that they have.

Mr. Burnett testified next. He stated that S.B. 491 was submitted in skeleton form. It deals with the repeal of all of the sections of Chapter 269 and the elimination of all reference to any unincorporated town. The work has already been done. Mrs. Ford stated that if we repeal all of Section 269, S.B. 505 amends Chapter 269. It was their intent to spell out what would be a criteria for unincorporated towns. The county commissioners would be given two years where counties would take a look at all communities in the area. If there are counties that would like specific services beyond what the town tax rate is providing those communities should be paying for these services themselves. They would report back to the next session. It would be a manner of examining the current towns and getting them all on an even basis.

Mr. Murphy asked if this question was put on the ballot and was defeated, what happens.

Mrs. Ford stated that the people would be saying we do not want those services. There is another portion which allows boards of county commissioners to form a town whether people want it or not if they are mandated by federal law. This is in the area of water pollution.

Mr. Murphy questioned if a town turned this down and were not required by the federal government to become a town, if this could still remain.

Mrs. Ford stated that they were not suggesting that all towns have a vote. This is for towns that would be formed in the future. The commissioners would have to take each town as it comes.

Mr. Dini stated that you would have to grandfather the present boards to make a transition of this type. You have to petition to have an election. Mrs. Ford stated that 10% would put it on the ballot. She indicated that she believes that section 24 needed to be more elaborate. Mr. Burnett stated that he thought that that was correct. It is intended that it provide that there would be no foreclosure. Mrs. Ford stated that there was no spelling out of how boundaries can be explained.

4-1291

Mr. Murphy asked Mrs. Ford to please give the committee a brief explanation of what the bill will be.

Mrs. Ford stated that it gives a statement of intent as to the language for unincorporated town government.

It provides: by petition of the people of 10% it would be placed on the ballot or that the county commissioners would create it. There would be an advisory board that would be elected. It provides certain kinds of services that can be provided through the town tax rate. It would also receive recommendations on ordinances. It also mandates that the Board of County Commissioners pay some attention to the town boards. It provides that they meet with the town board on a regular basis. They should play a roll and the board of county commissioners should use them as liason.

Mr. Burnett stated that the committee sought to remove the additional level of government. The consensus of the committee was that this is county government. That is why removing references to unincorporated cities are important because that was one more vestage of a by-gone day. The unincorporated town is very unique. This bill fixes it in place. Under A.B. 498 you cannot disincorporate any town. There are no powers given such an entity. Mr. Dini asked if there was some work to be done on both of these bills. Mr. Burnett referred to the Aspen search.

Mr. Glover testified next on the bill. He stated that the subcommittee put a lot of time on this bill. There are some real problems and this type of legislation will help these communities out. It is good legislation. He is in full agreement with the bills. There was good input from everyone around the state.

Mr. Richard Bunker spoke on behalf of Clark County. He stated that the transition of the present town boards in Clark County is what they are concerned about. When the new language is drawn he would like to look at it. If that will be rectified, they will be in support of the bill.

Mr. Crouch testified next. He stated that he had a feeling that this was ritten for a larger group. They have 140 people including children. He stated that Section 5 mentioned a five member advisory board. They have a three member board and it would be unnecessary for them to have a five member board. There set up in Silver City is mainly liason. He stated that there was no type of compensation for th6s job. He further stated that there was no "heat" on the board. In the old law there is an election filing fee. Mrs. Ford indicated that this was taken out. She stated that she would have no objection for an option for a three or five member board.

Mr. Schaffer testified next. He read his testimony to the committee and gave a copy of his testimony to the secretary which is attached hereto and made a part hereof.

Mr. Dini asked him to explain the structure of the Genoa Government.

Mr. Schaffer stated that the county commissioners asked them to prepare the budget which shows the resources and planned expenditures. Their assessed valuation is about \$400,000 and about \$300,000 comes from other sources. They submit their budget and upon approval of the county commissioners they expend it. About one-half of the money is not appropriated.

Mr. Craddock asked what the ad veloram was and Mr. Schaffer replied 50¢. Mr. Young asked if that was above the county rate to which Mr. Schaffer replied yes. Mr. Young asked if they had any bonds to which Mr. Schaffer replied no. Mrs. Ford stated that she agreed with most of Mr. Schaffer's comments on the bill.

Mr. Falche testified next. He stated that he agreed with Mr. Schaffer's comments. He stated that he had just been elected to the town board and that he was looking forward to a long relationship. He stated that he would lose a lot of interest in the affairs of the town. He further stated that he has lived in Genoa all of his life. The town has separated itself and managed to get everything they wanted and they have done well on their own.

Mr. Fuchtzer stated that he is a member of the Volunteer Fire Department. He stated that if this bill is not revised they will lose quite a bit.

Mr. Brooks, chief of the Fire department testified next. Mr. Brooks stated that Douglas County already has the budget control. This bill, as presently written, would kill town government. He referred to the firehouse and stated that everything was done by volunteer work - the labor and materials were donated. The town purchased the property. The Fire Department has constructed a \$30,000 building. Who would have jurisdiction over the building. The town has approximately \$500 for basic NIC coverage for the fire department. Douglas does not pay anything. The county has never offered to assist. They even purchased their own grader. The volunteers plow the snow in the winter.

Mr. Finn testified next and stated that his concern was government. He stated that he is in opposition to the bill.

Mr. Finn further testified that we do not need all of Section 23 and that it was advisory. He stated that part 2 of Section 18 is a county responsibility. He suggests that we do not try to take it away from local government. He stated that the best government was local government. He proposes delay. He indicated that the committee carefully consider this as long as necessary the wisdom of this kind of legislation.

Miss Sandy McCormack testified next. She stated that the government in Silver City was four years old. She stated that four years ago, enough people moved into Silver City to change the character of the town. They got together and wrote by laws. Their board is an advisory board. They run their own fire department. She referred to section 8 on page 2. She indicated that this seems like a put down. For an unpaid position, the town advisory board does a lot of work.

She stated that being on the board for one year was long enough. Within 15 years everyone in town would have a chance to be on the board. She asked that Silver City be removed from this bill because they are under 500 in population and if so it would be appreciated. She does agree with Genoa. They have had a natural process in town and they like this. This bill stops that.

Mr. Young asked about police protection. Miss McCormack stated that they do not need it.

The next bill to be discussed was A.B. 686. Vernon Bennett testified. He provided the committee with a copy of his testimony a copy of which is attached hereto and made a part hereof. He stated that Assemblyman Demers is agreeable to deferring action on this bill to allow them to study the matter by the 1977 Session. He referred to the two attorney general opinions attached to his testimony.

Mrs. Ford moved for indefinite postponement of A.B. 686, which was seconded by Mr. Murphy. The motion carried. Mr. Moody and Mr. Schofield were not present at the time of the meeting.

The next bill to be heard was A.B. 713. Mr. May stated that this bill was a request from North Las Vegas. Mr. Murphy moved for a do pass, which was seconded by Mr. May. The motion carried unanimously. Mr. Moody and Mr. Schofield were not present at the meeting.

The committee decided to hold A.B. 711.

Mr. Murphy asked the committee if he could make some amendments to exclude counties under 100,000 and those over 200,000, which would make this a Washoe County bill. Mr. Murphy moved for an amend and do pass which was seconded by Mr. May. The motion carried unanimously. Mr. Moody, Mr. Harmon and Mr. Schofield were not present at the time of the vote.

S.B. 455. Mr. Young moved for a do pass, which was seconded by Mr. Murphy. The motion carried unanimously. Mr. Murphy, Mr. Harmon and Mr. Schofield were not present at the time of the vote.

S.B. 491. Mr. May moved for indefinite postponement which was seconded by Mr. Young. Mr. Dini stated that this bill needed a lot of work done to it. Mr. Young stated that there is a variation between Tonopah and Genoa. Mrs. Ford stated that she felt that the bill could be amended to provide flexibility that is needed. She stated that there is nothing now and that is the problem. There is a need for this. She stated that she would like to try to amend the bill. Mr. Dini stated that we have the time to work on it.

Mrs. Ford stated that this bill can be amended so that it allows people like Genoa to operate. Mr. Dini indicated that the committee would hold this bill. Mr. May withdrew his motion.

S.B. 498. The committee will hold this bill.

Mr. Dini next discussed A.B. 557. Mrs. Ford referred to line 21. She stated that this could be made a option for all counties. This would take the place of the constable, in any county under 100,000. Mr. Murphy moved for an amend and do pass which was seconded by Mr. Young. The motion carried unanimously. Mr. Moody, Mr. Harmon and Mr. Schofield were not present at the time of the vote.

Mr. Murphy then discussed the amendments on A.B. 616, the communications bill. Mrs. Ford moved for an amend and do pass which was seconded by Mr. Murphy. The committee decided that this bill would receive an amend and do pass and refer to Ways and Means. The motion was unanimously carried.

Mrs. Ford moved for an amend and do pass on A.B. 617, which was seconded by Mr. Murphy. The motion carried unanimously. Mr. Schofield was not present at the time of the vote.

A.B. 618. Mrs. Ford stated that she had not, as yet, received the amendments on this bill.

A.B. 415. Mr. Murphy indicated that we would hold this bill until we see what would happen to the study. Mr. May moved for Indefinite postponement on this bill, which was seconded by Mr. Young. The motion carried. Mr. Murphy voted no. Mr. Schofield and Mr. Moody were not present at the time of the vote.

A.B. 230. Mr. Craddock moved for indefinite postponement which was seconded by Mr. Harmon. The motion carried unanimously.

A.B. 612. Mr. May moved for indefinite postponement which was seconded by Mr. Murphy. the motion carried unanimously. Mr. Schofield and Mr. Moody were not present at the time of the vote.

There being no further business to come before the meeting, the meeting adjourned.

Respectfully submitted,

Barbara Gomez
Barbara Gomez
Committee Secretary

ASSEMBLY

AGENDA FOR COMMITTEE ON GOVERNMENT AFFAIRS
WEDNESDAY,

4-1287

Date April 30, 1975 Time 8:00 A.M. Room 214

Bills or Resolutions to be considered	Subject	Counsel requested*
S.B. 491	Revises unincorporated town government law. Senator Monroe	
S.B. 498	Revises law on disincorporation of cities. NOTIFY: Senator Monroe	
S.B. 383	Clarifies restriction on private practice of law by district attorneys. NOTIFY: Senator Dodge	

*Please do not ask for counsel unless necessary.

UNINCORPORATED TOWN GOVERNMENTS



Bulletin No. 118

LEGISLATIVE COMMISSION
OF THE
LEGISLATIVE COUNSEL BUREAU
STATE OF NEVADA

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REPORT OF THE LEGISLATIVE COMMISSION

To The Members of the 58th Session of the Nevada Legislature:

This report is submitted in compliance with the perceived intention of the 57th Session of the Nevada Legislature to direct this body to study unincorporated towns and their relationship to county government. Assembly Concurrent Resolution No. 20 of the 57th session conveys this intention. A subcommittee was appointed to undertake the study and report to the 58th session of the legislature. Assemblyman R. Hal Smith was named Chairman of the subcommittee. Other members of the subcommittee were: Senator Warren L. Monroe and Assemblymen James J. Banner, Darrell H. Dreyer, Jean E. Ford, Alan H. Glover, Mary Gojack and Thomas J. Hickey.

The attached subcommittee report, containing background information, recommendations and suggested draft legislation, was approved by the legislative commission on October 16, 1974.

Respectfully submitted,

Legislative Commission
State of Nevada

Carson City, Nevada
October 1974

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SUMMARY OF RECOMMENDATIONS

This summary presents the major conclusions reached by the subcommittee. These conclusions were formed after considerable deliberation on the evidence for change before it. Background information can be found in the body of the report beginning at page 6.

The subcommittee recommends:

1. That the role of unincorporated town government in Nevada be clearly stated as an adjunct of county government; that, as such, it is not to be considered another or a separate level of government.
2. That to accomplish this stated purpose of government, basic provision of law regulating unincorporated towns be included in chapter 244 of NRS, relating to county government, and present provisions of law so ordering, found in chapter 269 of NRS, be repealed (Bill A).
3. That unincorporated towns be understood to be specific unincorporated areas within a county in which one or more governmental services are provided by the county in addition to those services provided in the general unincorporated area of the county (Bill A).
4. That the residents of the unincorporated town be represented by an unincorporated town advisory board (Bill A).
5. (a) That an unincorporated town may be formed, voluntarily, by initiative petition directed to the board of county commissioners or by placing the question on the ballot or by action taken by the board of county commissioners in placing the question on the ballot (Bill A).
 - (b) That an unincorporated town may be formed, involuntarily, when specific unincorporated county areas are directed by federal or state law to administer one or more services provided by town government (Bill A).

6. That certain services should be identified as "town services," which may, budget permitting, be provided to unincorporated towns, so long as the town's residents consent to the payment thereof through ad valorem taxation or user fees (Bill A).
7. That certain services have been determined to be appropriate town services:
 - (a) Cemetery.
 - (b) Dump stations and sites.
 - (c) Fire (volunteer).
 - (d) Flood control and drainage.
 - (e) Garbage collection.
 - (f) Parks (neighborhood).
 - (g) Recreation.
 - (h) Sewage collection.
 - (i) Streets.
 - (j) Street lights.
 - (k) Swimming pools.
 - (l) Television translator.
 - (m) Water distribution.(Bill A)
8. That, in the exercise of its discretion, a board of county commissioners may delegate the management of one or more of such services to an unincorporated town advisory board (Bill A).
9. That, although the board of county commissioners retains control of town affairs, an unincorporated town advisory board may be enlisted in developing a tentative town budget, recommending the adoption of ordinances or a town code and in making limited expenditures for town purposes (Bill A).

10. That boards of county commissioners be required to provide a meeting time and place, at least monthly, to confer with each unincorporated town advisory board in its county and that the town's recommendations and requests must be timely disposed of with reasons given for action taken (Bill A).
11. That boundary adjustment procedure and annexation procedure be improved (Bill A).
12. That the board of county commissioners of every county presently containing an unincorporated town or special district be required to make a full report to the 59th Session of the Nevada Legislature through the legislative commission. Such report should indicate compliance with the 1975 legislation or alleged inability so to do (Bill A).
13. That disincorporation procedures be revised (Bill B).
14. That changes required by the recommendations proposed be reflected in appropriate amendments in:
 - (a) Chapter 332 of NRS (Local Government Purchasing Act).
 - (b) Chapter 350 of NRS (Counties, Municipalities and Districts: Borrowing and Bonds).
 - (c) NRS 354.470 to 354.626, inclusive (Local Government Budget Act).
 - (d) Chapter 365 of NRS (gasoline tax).
 - (e) Chapter 370 of NRS (cigarette tax).
 - (f) Chapter 463 of NRS (county gaming licenses).
 - (g) NRS 710.400 to 710.590, inclusive (Light, Water and Sewerage Systems of Unincorporated Towns).(Bill C)

April 30, 1975

Town of Genoa

Statement to the Government Affairs Committee, Nevada State Assembly,
regarding S. B. 491

4- 1330

For more than fifty years the unincorporated town of Genoa has had a formal town government involving a "town board." The continuation of the town government has been possible because of the tacit assent of the Douglas County Commissioners. The by-laws under which the town government operates have been changed many times. The most recent change was in December, 1962. The Genoa town board functions principally as the agent to administer the affairs of the town according to the wishes of the townspeople. All major decisions, and most minor ones, are discussed, and decided by majority vote of the citizens present at town meetings. Regular town meetings are held quarterly; special town meetings are called (with three days advance public notice) whenever the town board finds such meetings necessary to conduct town business. The town board has three members, each elected for a three year term. One member is elected each year. The senior member is the chairman; the next senior member is the town clerk. Nominations and the election take place, by secret ballot, during the regular town meeting scheduled for the first week in January.

The boundaries of the town of Genoa are defined by the Hawkins Map of 1874. There is little room for growth within the town boundaries. Most of the growth is North and East of the town, consisting primarily of single family dwellings on plots of $2\frac{1}{2}$ to 10 acres.

The town of Genoa owns three buildings: a town hall, a fire house and a community church. The last two of these were constructed with volunteer labor and materials purchased by the town. No financial or other assistance was provided by the county. The fire house, with a present value of about \$30,000, is the newest structure. Its construction was aided by a \$5,000 grant from the Fleischmann Foundation in 1968. The town provided its own street lights and water distribution system and has a 13-man volunteer fire department. The town owns a motor grader. It is used to maintain the town streets (except Main Street and Genoa Lane, which are parts of the county highway system) and to remove snow. Labor is volunteered. The town has no paid employees.

The present tax rate for the town is 60¢. The assessed valuation is \$396,392. The ad valorem taxes, and some gaming and business taxes from local businesses, and personal property taxes, provide funds which are budgeted principally for insurance, utilities and maintenance materials for the town facilities. Taxes account for about half of the money spent by the town annually. The other half is derived from various fund-raising activities, including the annual "Candy Dance" which is a 55-year old Nevada tradition.

In January, 1975, the citizens of Genoa decided to create a committee to revise the by-laws so that, insofar as possible, they would conform to NRS 269 provisions. After approval of the new by-laws by the townspeople, they were to be presented to the Douglas County commissioners with a request that they be officially accepted by that body. The by-laws committee made its report to the townspeople at the March 3 town meeting. The

committee noted that some of the desires of the citizens, as reflected in the revised by-laws, were not consistent with NRS 269. After a lengthy discussion, the citizens present voted unanimously to have the committee present Genoa's views and desires to the Government Affairs committees of the 1975 legislature. The objective was to encourage legislation which would specifically authorize Genoa to continue to operate its local government as stated in the revised by-laws. Attempts by the Genoa committee to fulfill this obligation were restricted by the lack of an appropriate opportunity until hearings on S. B. 491 were announced. A review of 491 showed clearly that the bill, if passed, could make it impossible for Genoa to handle its affairs as it had done in the past and wished to do in the future.

Genoa does not claim to speak for any other town, although we believe that the basic precepts upon which our objections to 491 are based are applicable to others. Specifically, we believe that maximum "grass roots" participation in government should be an objective of the state; that volunteer action should not be discouraged by state or county actions; and that every community has the right, and obligation, to have the kind and degree of self-government which its citizens desire and will support. We see no virtues in uniformity. It serves principally to inhibit initiative and to make administrative dominance of communities by non-elected county and state officials more likely. Uniformity is a demeaning concept in many respects. Nevada surely has the capacity for diversity and the long range wisdom to realize that a large part of its social strength lies therein. It is astonishing that the state has a staff of people who are paid to encourage volunteer action and "grass roots" initiative and that simultaneously the legislature is considering a bill which would certainly discourage initiative and voluntary action.

For the convenience of the reader, we have listed our objections and comments relative to 491 in the order in which the provisions appear in the bill.

Sec. 4 We do not believe that the title "advisory board" is appropriate. It implies a role which is not satisfactory to a town's citizens and not sensible with respect to any managerial functions performed on behalf of the town. A term such as "community council" would be better.

Sec. 7.2 As noted earlier, "widespread disparity in the recognition of the role of town government" is not necessarily undesirable. The role of town government should be that which is appropriate for each town, reflecting the desires of the citizens and a formal arrangement between the town and the county.

Sec. 7.3 We have no quarrel with the idea that county government should be pre-eminent, but it should not be exclusive, as it certainly could be in the routine implementation of this bill.

Sec. 7.4 This provision of the bill is a masterpiece of understatement.

Sec. 10 The implication here is that every existing town must go through this procedure, even though it may have had town government for many years. This is unreasonable. There should be a provision to allow the continuation of existing town government under rules agreed to between the town and the county.

Sec. 12.1 A five member town board may not be appropriate for some towns. Genoa prefers three members. The law should allow any size which the town and county believe to be most appropriate, considering the size and situation of the town. 4-1332

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Sec. 12.2 There should be no appointed town board except for towns which are too large to have a properly representative public meeting. Each town should be encourage to elect its own board, so long as a secret ballot is used and the usual formalities of parliamentary procedure are employed.

Sec. 14.2 There should not be a mandatory requirement to file for office with the county clerk. Filing fees may be involved -- an unreasonable requirement for volunteer work in a small town. The law should permit the kind of election which is appropriate to the size of the community. In Genoa, the nomination and election of town officials at a general town meeting is more satisfactory than any other method. There are some social subtleties that are important. Being nominated in a public meeting often induces willing and effective participation of people who would not file for office. In short, we believe that this method gets the best people available to serve. We do not have (at least not as frequently) the common voter problem of having to choose the least undesirable of several undesirable candidates.

Sec. 15 Terms of office and times of election should be a part of the agreed upon arrangement between town and county. For very large towns, the 491 provisions may be very satisfactory. For very small towns, they are not.

Sec. 17.1 The list of services is written as if it is intended to be all-inclusive. It is not. For example, management of town property that does not fit in any of the categories listed (i. e. a church) is not included. The list should be of the "included, but not limited to" type.

Sec. 17.2 "Formation of the town" is not based solely on the provision of some specific tangible service. A major factor in the formation of town government is the provision of a forum for open discussion of all kinds of questions of interest to the citizens.

Sec. 18.2 This sub-section should be deleted. There is no reason, in our view, to restrict these services from town management. In Genoa, the water distribution system (that is, the physical elements) and the volunteer fire department have long been town functions, as well as street maintenance. Of course, the VFD operates in full cooperation with the Douglas County VFD.

Sec. 19 The town board should meet with the county commissioners whenever either body requests such a meeting.

Sec. 22 The responsibilities of the county board should not be discretionary with respect to town affairs. The section should begin with "Each board will:"

Sec. 22.3 This sub-section should be changed to authorize a town to control all expenditures of appropriated funds in its county-approved budget and of any non-appropriated funds it may possess.

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Sec. 23.1 We certainly agree with the words in this sub-section, but we believe that this bill does not support the stated objective.

4- 1333

The town of Genoa respectfully requests the Government Affairs Committee to:

- a. Defer action on S. B. 491 until the next meeting of the legislature so that towns may have time to organize and present their views and specific needs more fully. Arrange action to assure that a revised bill will be introduced early in the next session and that maximum time will be allowed for public hearings.
- b. Revise the bill as suggested by the comments and suggestions offered above. The revisions would not attempt to fit every town of every size and situation into a single mold. They would seek instead to encourage every community to do as much as it can for itself and to set up its local government in a way most satisfactory to its citizens.

For the citizens of the town of Genoa

By-Laws committee

AB-686

VERNON BENNETT
EXECUTIVE OFFICER

WILL KEATING
ASSISTANT EXECUTIVE OFFICER

STATE OF NEVADA



4- 1334

RETIREMENT BOARD
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PUBLIC EMPLOYEES RETIREMENT SYSTEM

P.O. Box 1569
CARSON CITY, NEVADA 89701
TELEPHONE (702) 885-4200

April 29, 1975

The Honorable Joseph E. Dini, Assemblyman
Chairman, Government Affairs Committee
Nevada State Legislature
Carson City, NV 89701

RE: ASSEMBLY BILL 686

Dear Assemblyman Dini:

Assembly Bill 686 would give blind persons the option to enroll in the Public Employees Retirement System and contribute the employee and employer contributions. It would also provide said persons with the right to obtain benefits under the State groups insurance program.

Mr. Bob Rodolph, Bureau of Services to the Blind, has advised that his agency has no opposition to the legislation. He states that federal legislation has required that the states review the possibility of providing retirement benefits and insurance to said persons. Mr. Rodolph also advises that said persons are not State employees but are under State supervision. He feels that a more accurate description of their classification is "independent businessman." According to Mr. Rodolph, there are presently 15 persons who could come under the provisions of AB 686. Three or four of said persons are under age 40, so they would be contributing 8% employee and 8% employer contributions beginning July 1, 1975. Many of the persons are between age 50 to age 65 and would be contributing 18% or 20% in total contributions beginning July 1, 1975.

Although the Retirement System is very sympathetic with blind persons, we must oppose AB 686. Since its creation in 1947, the Retirement System has always prohibited membership to persons not employed by a public entity. The Retirement System has recently denied membership to the Nevada League of Cities based on the attached Attorney

The Honorable Joseph E. Dini
April 29, 1975
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4- 1335

General's Opinion. We are also enclosing a copy of Attorney General's Opinion dated April 28, 1975, which stipulates that the Nevada Interscholastic Activities Association is ineligible for membership because it is not a public employer. We feel that the passage of AB 686 would establish a precedent to enroll persons who are not public employees. We do not feel that coverage of private employees is the purpose or objective of the Public Employees Retirement System. The Retirement System began its legislative process with public hearings held in July, 1974. We had 22 different provisions studied by our actuary to determine cost and effect. It is unfortunate that this matter was not presented to the Retirement Board and our actuary for proper study. Therefore, we respectfully request that your Committee either kill AB 686 or defer action on the matter until the 1977 session so that the Retirement Board and its actuary may perform the necessary cost studies. Mr. Rodolph has indicated that at least two of these persons could be eligible for retirement within the next two years, so their payment of employee and employer contributions would not cover the full cost for obtaining retirement eligibility during such a short span. We note that the bill requires a fiscal note. However, the Retirement System has not been requested to provide the information for the fiscal note although we have been requested to do so on most other retirement legislation.

Should your Committee determine that they are in favor of AB 686, we respectfully request your consideration of an amendment to said bill which would read as follows:

On page 1, between lines 11 and 12, insert the following:

3. The Bureau of Services to the Blind, of the Rehabilitation Division of the Department of Human Resources, shall be responsible for enrolling persons in the Retirement System in accordance with this Act and for collecting and reporting to the Retirement System the employee and employer contributions required therein.

This amendment would provide a systematic method of processing the individuals who elect coverage under this Act if it should become law. Mr. Rodolph has indicated that he feels that his agency would be able to perform this function.

4-1336

The Honorable Joseph E. Dini
April 29, 1975
Page Three

Please advise if you or any member of your Committee has any further questions regarding this matter.

Sincerely,

Vernon Bennett

Vernon Bennett
Executive Officer

VB/sm

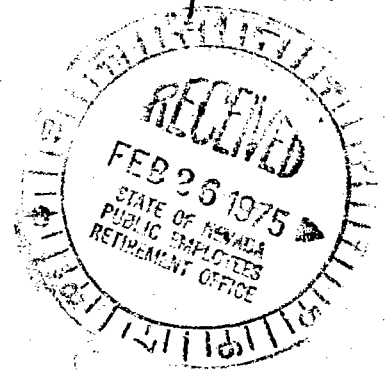
cc: The Honorable Patrick M. Murphy
The Honorable Robert G. Craddock
The Honorable Harley L. Harmon
The Honorable Paul W. May
The Honorable Don A. Moody
The Honorable James W. Schofield
The Honorable Jean E. Ford
The Honorable Roy Young
The Honorable James J. Banner
The Honorable Daniel J. Demers
Retirement Board Members
Mr. Bob Rodolph



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
SUPREME COURT BUILDING
CARSON CITY 89701

ROBERT LIST
ATTORNEY GENERAL

February 24, 1975



Mr. Vernon Bennett, Executive Officer
Public Employees Retirement System
P. O. Box 1569
Carson City, Nevada 89701

Re: Nevada League of Cities

Dear Mr. Bennett:

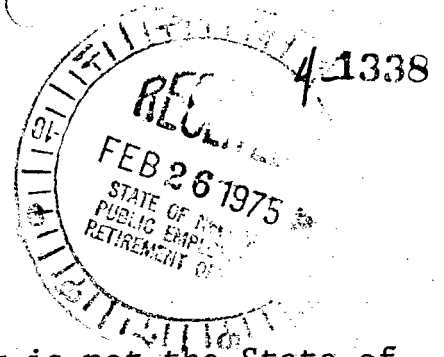
In your letter of February 13, 1975, you requested this office to examine the Nevada League of Cities and render an opinion as to whether the League is eligible for membership in the retirement system as a public employer.

We have now completed our review of the statutory scheme establishing municipal associations in Nevada, NRS 272.010 through 272.040, and the definition of "public employer" which appears in NRS Chapter 286. In addition, we have taken into consideration Attorney General's Opinion No. 502 (4-16-1968) which previously concluded that employees of the Nevada Municipal Association, predecessor to the League, who are not officials or employees of the municipalities covered by the Public Employees Retirement Act, are not eligible to receive benefits under the Act.

Based upon this review, it is the opinion of this office that the Nevada League of Cities does not qualify for membership in the Public Employees Retirement System as a "public employer", as that term is used and defined in NRS 286.070.

Under our retirement act, the term "public employer" is defined to mean "the state, one of its agencies or one of its political subdivisions, irrigation districts created under the laws of the State of Nevada, the Las Vegas Water District created pursuant to Chapter 167, Statutes of Nevada 1947, as amended, a nonprofit corporation to which a public hospital has been conveyed or leased pursuant to NRS 450.500 and a council of governments created pursuant to the laws of the State of Nevada." To be eligible for membership as a "public employer" in the Public Employees Retirement System, the Nevada League of Cities would have to be one of the entities listed in the foregoing definition.

Mr. Vernon Bennett, Executive Officer
February 24, 1975
Page Two



The Nevada League of Cities clearly is not the State of Nevada, nor is it a state agency in that it is not subject to state control and supervision, its employees are not governed by Chapter 284 of NRS, and it does not deposit funds with the state Treasurer. This was the conclusion reached in AGO No. 502 (4-16-1968) and we believe this conclusion is still valid today.

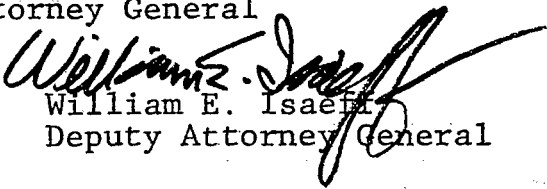
It is also obvious that the Nevada League of Cities is not an irrigation district, nor is it the Las Vegas Valley Water District, nor a non-profit corporation to which a public hospital has been conveyed. Mr. Robert E. Warren of the League has suggested that the League of Cities could be equated with a council of governments which has authority under law to participate in the Public Employees Retirement System. This office, however, does not share Mr. Warren's belief in this regard, since a council of governments is a particular governmental form recognized in the laws of Nevada consisting of an association of local governments for the purpose of coordinated planning and development. The Nevada League of Cities, on the other hand, is essentially an information gathering and lobbying operation for Nevada's cities. Unlike a council of governments, the Nevada League of Cities does not perform a governmental function.

For all the reasons set forth above, we conclude that the Nevada League of Cities, not otherwise specifically designated in the Retirement Law is not a "public employer" and therefore its employees are not "public employees", so that neither the Nevada League of Cities nor its employees may become members of the Public Employees Retirement System.

We trust that the above satisfactorily answers your inquiry, however, if you have any further questions regarding this matter, please advise.

Sincerely,

ROBERT LIST
Attorney General

By 
William E. Isaacs
Deputy Attorney General

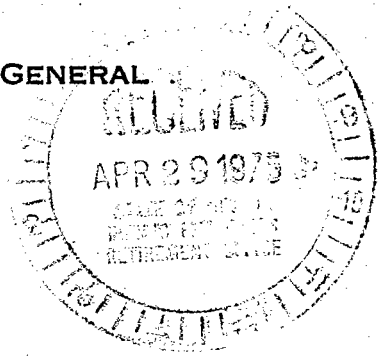
WEI:rab
cc: Mr. Robert E. Warren



STATE OF NEVADA
OFFICE OF THE ATTORNEY GENERAL
SUPREME COURT BUILDING
CARSON CITY 89701

ROBERT LIST
ATTORNEY GENERAL

April 28, 1975



Mr. Vernon Bennett, Executive Officer
Public Employees Retirement System
P. O. Box 1569
Carson City, Nevada 89701

Re: Nevada Interscholastic Activities Association

Dear Mr. Bennett:

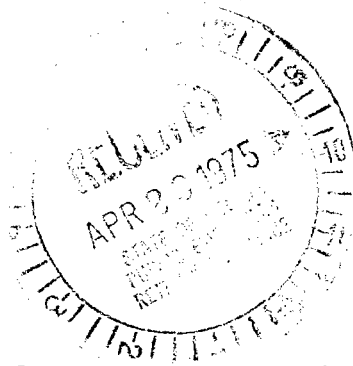
In your letter of April 14, 1975, you requested the opinion of this office as to whether or not the Nevada Interscholastic Activities Association is eligible for membership in the Public Employees Retirement System.

In order for any entity to be a member of the Public Employees Retirement System so as to qualify its employees for membership in the system, it is necessary that that entity be a "public employer" as such term is defined in NRS 286.070. That section of the Nevada retirement law reads:

"1. As used in this chapter, 'public employer' means the state, one of its agencies or one of its political subdivisions, irrigation districts created under the laws of the State of Nevada, the Las Vegas Valley Water District, created pursuant to chapter 167, Statutes of Nevada 1947, as amended, a non-profit corporation to which a public hospital has been conveyed or leased pursuant to NRS 450.500 and a council of governments created pursuant to the laws of the State of Nevada.

"2. State agencies are those agencies subject to state control and supervision, including those whose employees are governed by chapter 284 of NRS, unless specifically exempted therefrom, and those which deposit funds with the state treasurer."

Mr. Vernon Bennett
April 28, 1975
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4-1340

The Nevada Interscholastic Activities Association is a nonprofit association composed of the various county school districts in the state of Nevada. Official legislative sanction for the creation of such an association is granted by the provisions of NRS 386.420-386.470. The purpose of the nonprofit Interscholastic Activities Association is to control, supervise and regulate all interscholastic athletic events and other interscholastic events in the county public schools.

There is nothing in any of the provisions of NRS 386.420-386.470 which leads this office to believe that the NIAA qualifies for membership in the Public Employees Retirement System as a "public employer." The NIAA is without question not the State of Nevada, nor an agency of the state. Furthermore, it is obvious that the NIAA is not an irrigation district, or a part of the Las Vegas Valley Water District, a nonprofit corporation to which a public hospital has been conveyed or leased, or a council of governments. The NIAA is only what the law says it is: a nonprofit association of county school districts.

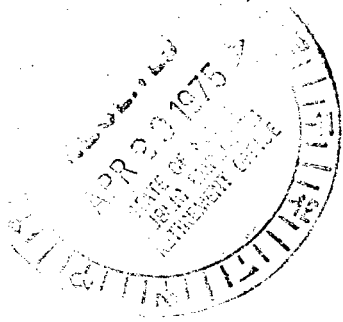
Although the various county school districts are specifically made political subdivisions of the state of Nevada by law, this nonprofit association made up of representatives from the school districts does not itself create a separate political subdivision apart from the constituent districts. Therefore, we must conclude that the NIAA is not a political subdivision which would qualify it for membership as a "public employer."

It is our understanding that a similar position has been taken by the Eighth Judicial District Court of the State of Nevada, Clark County, in Case No. A132655, wherein the court specifically found that the NIAA is a private nonprofit corporation and in no sense a state agency.

Since the NIAA is not eligible for membership in the system as a "public employer," its employees may not be members of the system either, since NRS 186.290 prohibits membership to any person unless he is in the service of a "public employer."

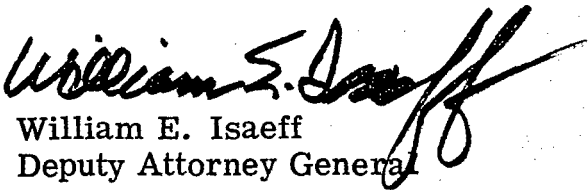
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We trust that the above satisfactorily answers your inquiry; however, if you have any further questions concerning this matter, please advise.



Sincerely,

ROBERT LIST
Attorney General

By 
William E. Isaef
Deputy Attorney General

WEI/cl

Amendment N^o 8442



Amend sec. 8, page 2, by deleting lines 3 through 8 and inserting:

"Sec. 8. The purposes of sections 2 to 23, inclusive, of this act are to provide for the formation of unincorporated towns and their government according to a uniform plan within the framework of county administration of the unincorporated area."

Amend sec. 17, page 3, by deleting lines 44 through 46 and inserting:

"2. If it appears that one or more of the services listed in subsection 1

is needed by the residents of the town and is not supplied by the county, the advisory board may elect to provide such service through local taxation."

Amend sec. 18, pages 3 and 4, by deleting lines 47 through 50 on page 3 and lines 1 through 4 on page 4 and inserting:

"Sec. 18. 1. When an advisory board has elected to provide a town service, it shall submit its budget for the next fiscal year to the board of county commissioners, and the latter board shall, except as provided in subsection 2, levy a tax not to exceed \$1.50 on each \$100 of assessed value of property and its proceeds of mines within the town, or establish a user fee schedule, or both, sufficient with any other revenues of the town to defray the budgeted cost, including debt service on any revenue bonds. The proceeds of the tax so levied and any user fees collected shall be credited by the county auditor to the account of the town and may be expended only to provide the service or services specified.

2. The board of county commissioners may elect to provide dump stations and sites, volunteer fire fighting, flood control and drainage, sewage collection, streets or water distribution, or any combination of these, instead of providing money to the town for this purpose."